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NOMINATION OF WILLIAM M. DIEFENDERFER III

HEARING

BEFORE THE

COMMITTEE ON
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

ONE HUNDRED FIRST CONGRESS

FIRST SESSION

ON

NOMINATION OF WILLIAM M. DIEFENDERFER, TO BE DEPUTY DIRECTOR,
OFFICE OF MANAGEMENT AND BUDGET

MAY 6, 1989

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NOMINATION OF WILLIAM M. DIEFENDERFER III

MONDAY, MAY 8, 1989

U.S. SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 10:04 a.m., in room SD-342, Dirksen Senate Office Building, Hon. John Glenn (Chairman of the Committee) presiding.

Present: Senators Glenn, Levin, Sasser, and Stevens.

Chairman GLENN. The hearing will be in order.

Today we consider the nomination of William M. Diefenderfer III to be Deputy Director of the Office of Management and Budget. We have our good friend Senator Packwood here this morning to introduce him, and we are honored to have you lead off this morning.

TESTIMONY OF HON. BOB PACKWOOD, U.S. SENATOR FROM THE STATE OF OREGON

Senator PACKWOOD. Mr. Chairman, thank you.

There is no one that I take greater pride in introducing to the Committee than Bill Diefenderfer, who I have known for a little over 10 years. As you look at his resume and as you question him, you will find him a man of extraordinary breadth: an English and history major from Dickinson College and the son of a steelworker. He has worked all his life, got out of Dickinson College, spent the better part of 6 years with the Pennsylvania Higher Education Assistance Agency where he was responsible for State scholarships in a fair portion of the State of Pennsylvania and there, I think, learned a great deal about that facet of Government.

His tour at that agency was interrupted for service in the Army, including combat in Vietnam, which he is modest enough not to list. He says "service," but he was, indeed, in combat.

He came back, finished up at Duquesne Law School and then got an L.L.M. at Kings College, University of London, interestingly in international trade law and Common Market law, which is certainly a subject of immediate and hot importance right now.

He served in various jobs in the House and with the executive branch, staff counsel to the House Committee on Education and Labor, and assistant director of the Domestic Council in the White House, administrative assistant to a Congressman. And then, in 1979, it was my good luck—I had become ranking minority member on the Commerce Committee and was looking for a new minority counsel—to come across his name. Bill came to our attention, and out of a pile of 50 to 100 résumés, his just stood out among any other that we had. And I was lucky enough that he took the job, and from that time on, it was my good fortune to be associated with Bill.

In 1981, he became chief counsel of the Commerce Committee when the Republicans took the majority, and stayed with me through late 1983. Then he went off and opened up a very successful law practice of his own for a relatively short period of time. When I became Chairman of the Finance Committee, I asked if he would come back, and he did come back as chief of staff and counsel.

I have got to say, although I do not know whether this is something everybody wants to know or not, he is probably as responsible as any single person, including me, for the tax reform bill in 1986. He did more to put the coalition together, did more to put out fires that needed to be put out and to start fires that needed to be started. And if there is any single thing—single thing—I look back upon, it was that extraordinary effort that he made to make that extraordinary reform possible. Following tax reform, Bill went back to the private practice of law for a short period of time, and then, of course, the administration called upon him to be, if confirmed, Deputy Director of OMB.

Now, that is the formal Bill Diefenderfer, Mr. Chairman. I know Bill and his family well. Sandy and Bill have been at our house for parties; we have been at their house. We have vacationed together. I know his sons Will and Barret. I do not have a closer friend in this town, and I am not likely to have a closer friend in this town. He is intellectually and personally the most extraordinary, natural leader I have ever met in my life—man or woman, black or white, liberal or conservative, House or Senate or executive branch, in or out of public life. Bill Diefenderfer has no peer.

I have quoted about him once before, and I will quote again, a quote that fits him well. It is from "The Natural" by Bernard Malamud, where the baseball hero, Roy Hobbs, is asked what he wants to be, and he said, "I want to be the best there is in this game, the best there ever will be." And that is Bill D. He is the best that there ever will be.

I want to add one last fact. When all else fails—when intellect and persuasion and friendship and loyalty and his wife Sandy and his children and everything else fails—please be advised that he is a brown belt in judo. And in his early 30's, he was third in the Pennsylvania State judo championships, going up against people in their early 20's, which were old at that time. So if he cannot persuade people any other way, he does have a talent that most of us do not have. And when we know that he has that talent, if he has failed in all other ways to persuade us, we somehow fall in line.

Chairman GLENN. He is liable to need that over at OMB, too. [Laughter.]

Senator PACKWOOD. He will need it both at OMB and on us on occasion. But I can assure you, Mr. Chairman, there is nobody better. I can come to this Committee for 10 years introducing people, and I will never introduce anybody better or have a better friend.

Thank you.

Chairman GLENN. Thank you. I gather you recommend him. [Laughter.]

Thank you very much, Senator Packwood.

Senator PACKWOOD. Thank you. I think I will sit back here and hear some of the questions.

Chairman GLENN. Fine. Sure. Be glad to have you join us here. Stay there at the table if you would like since you are already seated. That would be fine.

Senator PACKWOOD. All right. I will do that for a while.

OPENING STATEMENT OF CHAIRMAN GLENN

Chairman GLENN. OMB plays a very pivotal role in deciding how the President puts together his budget recommendations to the Congress. Past Presidents and Congresses have looked to OMB as an important source of leadership for improving Government operations and the efficiency of all our executive branch agencies.

I was struck by a statement by Paul O'Neill, Deputy Director from 1974 to 1979, and I quote his statement. He said, "One of the interesting things about OMB is that it is unexplainable to everyone who lives outside the Beltway and misunderstood by nearly everyone who lives inside the Beltway."

As I told Dick Darman at his confirmation hearing, I consider the head of OMB to be the number 2 power spot in our whole Government. I do not think I overstate that at all. It is second only to the President in the exercise of power in our Government. And, obviously, becoming the deputy director will place you high in the hierarchy that decides what direction this Government takes. The office amounts to the President's right arm. OMB formulates and defends the President's budget, coordinates the President's legislative program, devises fiscal policy, reviews agencies' regulations, and approves their paperwork and information collections. By virtue of laws sponsored by this Committee, some of them, OMB also has a leadership role in improving our Federal procurement system, which governs the purchase of well over $200 billion worth of goods and services each year. In short, OMB directs the overall management of Government.

Now, I will want to ask Mr. Diefenderfer a few questions on his views concerning these OMB management functions. I also want to address the issue of trust.

The "M" in OMB, one former director said, I believe, has stood in recent years more for "moribund" instead of "management." I think that has been true in many cases. The "M", which we put into the office when the law was changed some years ago, has not been exercised to the level that we think it should be exercised. And I think there is a great role there. I know we discussed this in considerable detail when we talked to Mr. Darman at his hearings here a few months ago.

But let me address trust also. I think it is absolutely vital that a level of trust exist between the executive and legislative branches of Government. The ability to work together breaks down when you do not have mutual trust. If confirmed, Mr. Diefenderfer, you will be an important player in either building or eroding that kind of trust between Congress and the administration.

Now, you have worked in Congress. You have had the inside view here. Senator Packwood mentioned your role in the 1986 tax change. I remember you wandering around these halls with a bundle under your arm, trying to keep track of what was going on. And the same thing gets repeated now when we have the CBO and the budget resolution up for consideration. It is very complex and complicated legislation.

I would be remiss if I did not make a few observations about the recent bipartisan budget agreement between the administration, led by OMB, and Congress.

The agreement calls for $23.7 billion in deficit reduction. Under OMB economic assumptions, this agreement, if fully implemented, will result in a deficit of $99.4 billion in fiscal year 1990—an amount below the Gramm-Rudman-Hollings target of $100 billion.

Now, I support efforts at deficit reduction. I certainly do. But I am concerned about this agreement. OMB's rosy forecasts of interest rates and growth seem unrealistic given the performance of the economy so far this year, and anything that many other people view for next year, too. Today's interest rates are at 8.6 and rising. That is a far cry—and a difference costing billions of dollars—from the 5.5 percent rate that OMB has projected for the coming fiscal year.

The agreement also achieves much of its savings from accounting gimmicks. For example, the more than $7 billion earmarked in fiscal year 1990 to bail out the saving and loans is somehow kept off budget, thus not appearing in calculations of the deficit. About $900 million is "saved"—and I put "saved" in quotes—by shifting some farm support payments from fiscal year 1990 back to this year. Nearly $500 million is generated by writing off lost or damaged food stamps from past years that people may or may not want to use. We do not know.

I will not go on with a whole bunch of these gimmicks. There are others I could list. But it indicates that we are approaching the whole problem of deficit management and deficit reduction on a far less than honest basis, at both ends of the avenue, led by the figures and proposals from OMB.

So, no matter how we may feel about the bipartisan agreement, there are very serious questions about it which currently confront us. OMB and Congress will face a very tough challenge trying to formulate plans to combat this deficit crisis.

Now, let me summarize for the record the steps the Committee has taken in consideration of this nomination. Committee rules mandate that an inquiry be conducted into the experience, qualifications, suitability, and integrity of nominees. The Committee has received from Mr. Diefenderfer financial statements, as well as detailed information, his educational background, his employment record, and professional achievements. In addition, the nominee has responded in writing to prehearing questions submitted by the Committee concerning the duties and responsibilities of the deputy position he has been nominated to fill. He has also responded to supplemental questions in writing.

Copies of the biographical information and prehearing responses will be placed in the record as part of this hearing and are available today upon request. The financial statements and supplemental questions are available for inspection by the public in the Committee office.

Committee investigators have reviewed the nominee's biographical and financial information. In addition, staff have examined the financial disclosure reports submitted by the Office of Government Ethics to assure that no conflicts of interest are present.

I have reviewed the FBI background investigation report on the nominee personally. I understand my distinguished ranking colleague, Senator Roth, will be doing so following this hearing. Finally, the nominee has been interviewed in private by designated Committee staff members prior to this hearing.

Again, I cannot emphasize enough that the position for which you have been nominated requires strong and effective leadership. OMB not only needs to confront the continuing pressures of deficit reduction, but also the complex issues of Federal management.

In closing this opening statement, let me state a couple of matters relating to your professional employment background which I must address today. I am sure other members of the Committee will want to address these also; namely, your receipt of honoraria while staff director of the Senate Finance Committee as it was considering the tax reform bill. Also, the activities of your law firm with a heavy legislative practice following your departure from the Senate. I know the staff has discussed this with you, and you are prepared to discuss it today.

I want to strongly emphasize, however, that I am not aware of anything you might have done in this context which was contrary to Senate rules or in violation of Federal law. Nonetheless, due to the importance of the position for which you have been selected, it behooves us to have your assurances on record here today. So, again, I welcome you to the Committee and look forward to your testimony this morning.

Senator Stevens, do you have any remarks this morning?

Senator STEVENS. Mr. Chairman, I am pleased to be here for Bill's hearing. We met extensively in my office last week. I am also pleased to be here because he has a Master's degree from the University of Alaska.

Chairman GLENN. We will not hold that against him.

Senator STEVENS. Did you get your Master's degree there or did you get credits toward it?

Mr. DIEFENDERFER. I got credits toward it, sir.

Senator STEVENS. While he was at Fort Wainwright in Fairbanks, Alaska, he attended the University of Alaska and obtained credits toward his Master's degree in English literature. So I have a special fondness in my heart for anyone who has attended that university. You all know that.

Mr. DIEFENDERFER. I might say, sir, that if the Army had not chosen to relocate me to a warmer clime, I would have gotten the Master's. But they moved me halfway through it.

Senator STEVENS. It is nice to be with you, and I had an extensive visit with the nominee and will be pleased to stay here with you for this hearing.

Thank you.

Chairman GLENN. Committee rules require that the nominee be under oath while testifying on all matters relating to his suitability for office, including the policies and programs which he will pursue while in that position.

Mr. Diefenderfer, would you stand and raise your right hand? Do you swear the testimony you are about to give is the truth, the whole truth, and nothing but the truth, so help you God?

Mr. **DIEFENDERFER**. I do.

Chairman **GLENN**. Do you have a prepared statement, or would you like to make one? The full statement will be included in the record, whatever you prefer to do.

TESTIMONY OF WILLIAM M. DIEFENDERFER III, NOMINEE TO BE DEPUTY DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET

Mr. **DIEFENDERFER**. Mr. Chairman, with your permission, I have a very short opening statement.

Chairman **GLENN**. Fine.

Mr. **DIEFENDERFER**. Mr. Chairman, distinguished members of the Committee on Governmental Affairs, I appreciate the honor of appearing before this Committee as part of the confirmation process and thank you for allowing me to do so.

I wish to acknowledge today an additional debt of gratitude to Senator Packwood for his kind remarks about me this morning. He has given me so much more than kind words over the 10 years I have known and worked for him that I know that I can never repay him. I will die in his debt.

I am honored and in awe of the responsibility and trust President Bush has placed in me in nominating me to be Deputy Director of the Office of Management and Budget. Knowing that the President sought the counsel of Director Darman while considering my appointment, I offer him my warmest appreciation for supporting me. In response to the faith and trust placed in me, I pledge, if confirmed, to serve the United States, President Bush, and Director Darman to my fullest abilities.

Finally, I must acknowledge, as most men and women who have received honors must, that this honor is not mine alone. The sharing starts with my parents and ends presently with my wife and children. In between, there are teachers, doctors, nurses, Boy Scout leaders, professors, colleges and universities, friends, and even the U.S. Army. To these and many more, I must acknowledge my indebtedness and eagerly offer to share any honors given to me. To all of these, I also pledge to do my best, if confirmed.

Thank you, sir.

Chairman **GLENN**. Thank you.

Would you care to introduce the members of your family? I had the pleasure of meeting them just a moment ago. Introduce them to everyone here.

Mr. **DIEFENDERFER**. Thank you.

This is my wife, Sandra; my eldest boy, Will; and my younger son, Barret.

Chairman **GLENN**. Thank you. Thank you very much. We welcome them to the hearing this morning also.

I have three required questions I must ask you. The Committee requires these to be asked of everyone. Number 1, do you know of any reason, personal or otherwise, that would in any way prevent you from fully and honorably discharging the responsibilities of Deputy Director of the Office of Management and Budget?

Mr. **Diefenderfer**. I do not.

Chairman **Glenn**. Second, is there anything you are aware of in your background which might present a conflict of interest with the duties of this office?

Mr. **Diefenderfer**. I do not, sir. The Office of Government Ethics has opined that I have no such things in my background. I have, for the sake of appearance, offered and will recuse myself on several issues that I have put forward to the Committee in my response to Committee questions.

Chairman **Glenn**. Right. Perhaps I should read those into the record. Do you care to elaborate on those? I have the list written out here; if you wanted me to, I would be happy to read it into the record and make sure that you agree with the whole thing.

Mr. **Diefenderfer**. That is fine, sir.

Chairman **Glenn**. All right. There are five instances which you have promised the Committee you would disqualify yourself. You have told the Committee in one of your responses to the prehearing questions you are not aware of any reasons for which you would have to disqualify yourself from a decision due to your current personal holdings. As mentioned earlier, both the Office of Government Ethics and the OMB ethics officer have concurred.

However, you further indicated that due to your prior relationship with certain firms or groups, for which you state you have no continuing financial interest, in order to avoid even the appearance of a conflict, you intend to recuse yourself from specific decisions, should they arise.

These instances are: one, any particular tax legislative matter or particular activity before the IRS involving all firms or groups that you represented on tax legislative matters or before the IRS. These firms, 14 in number, are identified in your response to question No. 1 of the Committee's supplemental questions. They would be enumerated as follows: No. 1, Ad Hoc Insurance Group of Bermuda; No. 2, Alaska Air; No. 3, AIG; No. 4, Association of American Railroads; No. 5, Genentech; No. 6, Johnson Simmons; No. 7, LTV; No. 8, Marriott Corporation; No. 9, Metropolitan Insurance Company; No. 10, Mortgage Guarantee Insurance Company; No. 11, National Cable Television Association; No. 12, Pennsylvania Higher Education Authority; 13, Union Labor Life; No. 14, United States Telephone Association.

We would note that this recusal does not include issues of broad or general policy affecting a larger class of parties of which these companies may be one and will be for 1 year. Two, below that, also any particular matter involving United Savings Association of Texas, acquisition of failed or failing savings and loan institutions. That general recusal does not apply to matters of general policy affecting the savings and loan industry.

Three, any particular matter involving the Federation of Postal Police Officers as it pertains to labor-management issues. And this recusal is for 1 year.

No. 4, participation in any governmental action directly and specifically addressing the acquisition by the Henley Group of a federally regulated firm.

No. 5, participation in any particular matter directly and specifically involving Phillip Morris' compliance with Federal pension law. This recusal does not include issues of broad or general policy affecting a larger class of parties of which Phillip Morris might be merely one. This recusal will be for 1 year.

Now, No. 3 of the questions that I am required to ask—oh, first, do you agree with that as a fair statement of your agreement?

Mr. **Diefenderfer**. Yes, I do, sir.

Chairman **Glenn**. Fine. The third question I am required to ask: Do you agree without reservation to respond to any reasonable summons to appear and testify before any duly constituted Committee of Congress if you are confirmed?

Mr. **Diefenderfer**. Yes, I do, sir.

Chairman **Glenn**. Thank you.

Let me follow up with my first question. Those are all of the required questions; we now get into the open questioning. Let me follow up on that, however. We are running into some things these days with testimony on Capitol Hill from people in other branches of Government, all of whom are being required to have their statements submitted to, approved by, and in some cases changed by OMB before they are permitted to come to the Hill and give testimony. This is something we have been concerned about for a long time, many years here, and I want to discuss it to get your views on it this morning.

The way we have approached this in the past is that OMB has the right to do that in their coordination function for all the different branches of Government. However, we also reserve the right here, as we did on the Armed Services Committee just a couple of days ago, or late last week, with the Joint Chiefs of Staff, of asking witnesses personal views and whether there was anything changed in the statement that they placed before OMB; and if so, to tell us what those changes were. We have considered that they are dutybound, and we get their assurances at their confirmation hearings that if their views differ from OMB, they will, in fact, give us their personal views.

Now, I would appreciate any comments you can make about what you see as the probable policy, how it will be executed and whether it differs from that which we have followed here for some time.

Thank you, Bob.

Senator **Packwood**. Thank you, John.

Mr. **Diefenderfer**. In response to your question, sir, let me start by stating what I understand to be the function of OMB, which is the coordination and review of testimony on legislative initiatives that departments or agencies may put forward. And one of our responsibilities is to coordinate them and to make sure that they are in accordance with Presidential policy.

That said, and that is one of our main functions, I do not disagree with the statement of the past policy that you have put forward, and I would expect that it would go forward without any interruption on our part.

Chairman **Glenn**. We have an article from this morning's New York Times where this policy is being challenged or commented on by one of the scientists from the Goddard Space Center.[1] Have you seen that this morning?

Mr. **Diefenderfer**. Unfortunately, I saw it on the ride up here, and it is the first I have learned about it. I made one attempt through a phone call to get an assessment of exactly what factually happened. I am afraid that my factual knowledge is incomplete. But what I have learned is that that testimony was reviewed at a level below the Deputy Associate Directors for Policy; changes were suggested; the changes were not appealed above that level to the policy associate directors or to the Deputy Director, or I should say the Executive Associate Director, the level at which I operate, or the Director.

I understand from the article, and only from the article, that the person whose testimony was changed has strong feelings about it and objects to it. We are reviewing that matter; the matter is being reviewed as I sit here.

Chairman **Glenn**. This appears to be one of those instances where the altering of testimony is not a matter of policy, and that is disturbing. It changes what this man's views are on scientific facts, and he's the scientist. The title of the article is, "Scientist Says Budget Office Altered His Testimony."

Let me read just a little bit from it. "The White House Office of Management and Budget has changed the text of testimony scheduled to be delivered to Congress by a top Government scientist over his protests, making his conclusions about the effects of global warming seem less serious and certain than he intended. The testimony had been prepared by Dr. James E. Hansen, director of the National Aeronautics and Space Administration's Goddard Institute for Space Studies, for delivery Monday before the Senate Subcommittee on Science, Technology and Space, congressional sources said. Dr. Hansen confirmed that the testimony had been changed.

"In his original testimony, he said that computer projections of changes in climate caused by carbon dioxide and other gases released into the atmosphere would cause substantial increases in temperature, drought, severe storms, and other stresses that will affect the earth's biological system. The text of his testimony was edited by the Budget Office 'to soften the conclusions and make the prospects of change in climate appear more uncertain,' Dr. Hansen said in an interview."

There is some other writing here, and Senator Gore has apparently commented on this. He is quoted here taking a strong exception to some of this. The article goes on to say, "Dr. Hansen's testimony, before it was changed, would have given strong support to the position that while there are still many uncertainties, enough is known now about the general and even regional effects of the global warming trend to start acting now to mitigate and prepare for those effects."

The way this occurred disturbs me more, and it could not have come at a better time to ask you a question about than this morning. It is one thing to say at OMB that we are coordinating Government policies and making reasonably certain that we are not speaking with too many different voices. It is quite another thing to take a scientist's view of things and soften those for whatever purpose OMB felt they should soften them. And that means we are trying to stifle individual scientific thought, as far as the presentation and the conclusions of that thought to the Congress are concerned. And that is something, if it continues, on which we are going to have deep trouble.

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[1] See p. 69.

Mr. **Diefenderfer**. I would only say, sir, that in fairness to the OMB staff involved and in fairness to Dr. James Hansen, I do not know the facts of whether the testimony was altered in the manner suggested. We are obviously going to find that out. And if, in fact, there was an attempt to alter or change scientific fact or conclusion, it would not be a policy which I would support or pursue in the future if matters of these sorts should come to my attention.

Chairman **Glenn**. Well, how these things are coordinated, I hope you take that on as a very early effort at OMB. How this is carried out is going to determine much of our relationship back and forth, whether we feel we can trust people to come up here and give us their honest views.

I had another instance of this, just to add another example. Just last week, a witness from the Customs Service sat in the same chair in which you sit today. There were some different views expressed. I asked specifically if their testimony was required to be reviewed by OMB and approved before they could come up and give it. He said, "Yes, it was." I said, "Did they change anything?" "Yes, they did." "What did they change?" He said, "I was baffled by the change that they made in my testimony." I said, "Well, what was it?"

They had changed the fact he had in his testimony that the Customs Service has a long history of some 200 years in protecting the coastlines. That was the part that was cut out.

Now, can you give me any possible reason why you think OMB would want to cut out a reference to the long history of the Customs Service in protecting us in this country?

Mr. **Diefenderfer**. Well, not a serious answer, sir, no. I might opine that maybe we wanted to spare you something you already knew and shorten the hearing. But editing changes of that nature is—I guess beauty in that sense is in the eye of the beholder.

Chairman **Glenn**. Well, you have a lot of speeches and a lot of statements submitted to OMB for review every single day; at least while Congress is in session you do. You are going to have a rather large staff reviewing those things. Just do not let the people over there, who are fairly new to their job in this new administration, run wild in exercising their authority and get carried away with, in effect, censorship. That is what this boils down to.

I do not think anybody objects to coordinating ideas so we get a clear statement of policy from the administration. But when it gets into something where this scientist is presenting his scientific views based on computer studies and all those things and OMB tries to soften that viewpoint, for whatever purpose. I see that as just flat wrong. And that is not a policy we are going to want to tolerate around here.

Mr. **Diefenderfer**. Yes, sir.

Chairman GLENN. Getting into the second area that I mentioned, ethical and professional conflict questions, I want to repeat what I said going in. We know of no laws or Senate rules that were broken when you were here. As I understand it, you had permission from your Committee Chairmen, at each point along the way, to do what was done. And let me just state that Senate Rule 37, Section 2, states: "No member, officer, or employee shall engage in any outside business or professional activity or employment for compensation which is inconsistent or in conflict with the conscientious performance of official duties."

Before I turn to the substantive areas of that, I first want to ask you some questions about your receipt of honoraria while staff director of the Senate Finance Committee, as well as your compliance with the required 1-year post-employment ban on lobbying the members and staffers of your former Committee. My purpose in doing so is to receive your personal assurances that you have fully complied with the Rule. I thought this would be the most expeditious and satisfactory manner in which to address these questions.

If you had been nominated for some other position without the power and jurisdiction of OMB, there would be little reason to pursue this matter. However, you were a key player—as Senator Packwood pointed out, probably the key player—in the 1986 Tax Reform Act. After leaving the Senate, you later had several clients with interest in legislative tax matters, such as the 1988 Technical Tax Corrections Act. Although this year, the duck-hunting season as we have called it following Mr. Darman's testimony here is over, if there is ever any budget agreement to be negotiated that might include user fees or revenue enhancements, you and the Director will be intimately involved. I may occur that some of your former or future clients would be affected.

On the subject of honoraria, while you were staff director of the Senate Finance Committee from January of 1985 through October of 1986, you appeared before a number of business and professional organizations as well as individual companies across the country to speak on the subject of tax reform. The Committee you directed was considering this very matter at that time. On many occasions, you were paid honoraria to give a speech.

In an 18-month period during this time, you made, by my count, some 29 speeches for your efforts. You collected $31,250 in honoraria. You have told the Committee your employer, Senator Packwood, approved of your receipt of honoraria and that you kept him verbally apprised, a matter which I certainly do not doubt. It is not illegal or contrary to Senate rules for staff to accept honoraria. As required, you listed the honoraria on your Senate financial disclosure statement for the year 1985.

What I was surprised to find out, I guess—I did not know this before; maybe Senator Stevens did—but there is no cap on honoraria that Senate staff can accept. None whatsoever. The record is clear on honoraria.

My record is clear. I am just against honoraria. I do not accept any myself, but that does not affect other Members.

I also acknowledge the argument made by some that Members, at least, are elected and held accountable for their actions and votes. They are on duty, if you will, 24 hours a day. That is a bit different than staff. The amount of honoraria received was high compared to most staff people here, and I understand why you were in such great demand. There were billions of dollars of Tax Code provisions at stake. There were a lot of business interests willing to pay to hear your views on them or to just get a chance to talk to you about their concerns.

Now, my concern is that you were giving speeches in your official capacity as staff director of the Senate Committee on matters that fell within the scope of your ordinary duties, and collecting well over $30,000 in 1½ years does raise some eyebrows. You probably could have made much more than that if you had wished to do so.

That was the start of a very long and detailed statement, but made at the time my original questioning period was up. Before I get into details, I will yield.

Senator **Stevens**. Go ahead. I do not want to interrupt.

Chairman **Glenn**. My question is this: Did you ever have any qualms at all about receiving honoraria for speaking on matters you were paid to follow as part of your duties as staff director for the Finance Committee?

Mr. **Diefenderfer**. I did not. I ascertained what the law and rules governing that procedure were, and I adhered to the letter of the law and the rule. There were instances—I probably gave six to seven times the number of speeches that you have indicated. There were a number of times that I was offered honoraria where I thought people had specific issues in front of the Committee and I did not accept the honoraria, but I made the speech.

Chairman **Glenn**. The groups you spoke to were interested in the issues involving tax reform. Did you ever feel that receiving honoraria for speeches to these groups would create the perception of a conflict of interest?

Mr. **Diefenderfer**. I did not think at that time that it did. Since, I have been asked the question, "Is it possible that someone would have the perception that there was a conflict of interest?" and I would have to acknowledge that with 250 million people it is possible that someone would think there was a conflict. But I do not believe there was one. I know there was not one. I have attempted to adhere to the law. The new—well, I should not say new, but the standards of appearance are an emerging concept, I would guess. I have always followed in the past the precept that I would obey the law, rules and regulations of the Government, or any organization I belong to; and that beyond that, I would only answer to a higher authority as to matters of conscience.

Chairman **Glenn**. Let me put this in Senate rule language so we have you very clearly on the record. Did the receipt of the honoraria from these organizations and companies ever affect the conscientious performance of your duties?

Mr. **Diefenderfer**. Absolutely not, sir.

Chairman **Glenn**. Thank you.

Senator Stevens.

Senator **Stevens**. Mr. Diefenderfer, I will get and put in the record the amounts of honoraria received by the two people you were working with primarily, Senator Dole and Mr. Rostenkowski. I think that the demands for appearances from people dealing with the Finance Committee, particularly during the period you were there, are different from those that apply to any other portion of the Congress.

As one who does take honoraria, I am surprised you did not keep up with those that you were working with. My memory is each one of them were far in excess of $100,000 in each one of the years you are talking about receiving a total of $30,000.

[The information submitted by Senator Stevens follows:]

Senator Dole (R-KS):	
1985:	
Total honoraria	$127,993
Honoraria to charity	106,618
Total honoraria kept	21,375
1986:	
Total honoraria	119,575
Honoraria to charity	87,500
Total honoraria kept	32,075

House recipients of $25,000 and more in honoraria in 1985

Representative Rostenkowski (D-IL):	
Total honoraria	$137,500
Honoraria to charity	115,033
Honoraria kept	22,467

Senator **Stevens**. I do not intend to comment at all about that. I am satisfied with your answer to the Chairman's question concerning any conflict of interest.

What I am interested in now is, though, this whole question about the role of OMB in the coordination of Government. And while I have high respect and regard for my good friend, the Chairman, I have been downtown and been involved in some of this coordination in years gone by. And I would not want to see you paint yourself into a corner where you cannot do your job.

It is my understanding that the new policy that Senator Glenn has indicated concerning not changing facts is one that we would all agree with. However, there is a fine line between conclusions from facts and policy. I would like to go into that a little bit.

Regarding the example that was in the Times, it seems to me that there is a considerable difference of opinion over what are the proper conclusions to be made from the studies being conducted by various scientific groups on the global warming trend. I just saw one in terms of the water temperatures for the North Pacific, and it shows that there is a cyclical 20-year period, and we are exactly where we should be in that 20-year period, that there is no indication at all from the water temperature studies that there is any kind of warming trend in the Arctic.

Now, I am a little worried about this in terms of the conclusions. What is the role, as you understand it, of OMB with regard to the conclusions that the administration has a right to coordinate as far as the great mass of data that is coming in now to the OMB on this subject in particular?

Mr. **Diefenderfer**. Well, sir, it is my understanding that, in fact, we do not have the right to alter facts. But the conclusions from those facts are something that is subject to coordination by OMB and by all the parties. There are often several different departments who are interested in the same issue and observing the same facts and coming to different conclusions. One of our jobs is to rectify the differences in those conclusions and to make them consistent with the President's policy.

I would further state what I have observed over time about scientific fact. For example, drink as much milk as you can, then they start to tell you about cholesterol; that you should eat a lot of red meat when I was a child, and now I am not supposed to eat red meat. These are all scientific facts or conclusions from scientific facts.

So I share your concern that we be very careful in leaping from factual statements, which can be determined to be scientific fact, and moving to the conclusion stage.

I am not at all sure in this instance, because I have only seen the report in the New York Times that, in fact, what we have altered is facts or we have altered conclusory statements made by this particular man from fact.

Senator STEVENS. I am particularly concerned about the conclusions from studies that are made by a multiplicity of different agencies dealing with the same subject, and the timing of the announcement of what is the Government's decision, conclusion, as directed by the President, that it wishes to present to the public and to the world on any particular controversial subject. Coming from where I come from, we have a lot of controversial subjects.

Mr. DIEFENDERFER. You sure do.

Senator STEVENS. We have got some going on right now that are very disturbing, and we want to make certain that all of the facts are in before anyone draws conclusions on some of them. The great oil spill in Valdez, the question of whether we continue to drill in the Arctic or whether we continue to drill in offshore Alaska—those are all being investigated now by various scientific teams.

I particularly do not want to see someone going off half-cocked and announcing what the conclusion is before all the facts are in. So I would hope that you would preserve your role as a coordinator of not only what is the policy but as to when a Government conclusion on the facts is going to be announced.

I am not really arguing, my friend. I would agree, but I just do not want anyone to misunderstand that many of us believe that there is a proper role to coordinate the timing of a decision as to what are the facts that are going to govern Federal policy, and that you have a very valid role in that regard. As I understand it, as deputy, that will be your role. Is that not correct?

Mr. DIEFENDERFER. That will be part of my role, yes, sir, and I do agree with you that it is a key function of OMB to gather the facts and to analyze them thoroughly, to have all the information in before conclusions are drawn on behalf of the Government or the President.

Chairman GLENN. If Senator Stevens would yield for just a second?

Senator STEVENS. Yes.

Chairman GLENN. But that is also our role.

Mr. DIEFENDERFER. Yes, sir.

Chairman **Glenn**. And that is the important issue here. That is the important difference. I will not get into the Constitution and all that, but we have a shared responsibility. It does not all rest in the executive branch of Government. We are the legislative branch. We expect people to come before the Committees and give their views on things without fear of favor. And we also make up our minds. We do not just sit here and wait until something is proposed from the other end of the avenue.

That is the disturbing part about this, because what we are doing is saying: Here is a man, a scientist, who has his views. Now, we as Committees hear views from all over. We definitely try to get pros and cons on every issue. We deliberately bring in people we may not agree with so that it is on the record, the pros and the cons. We do not say, "OMB, you decide what the pros and cons are." We decide those for ourselves, and we depend on people being able to come and testify before the Committees. And we believe their testimony.

If we get to the point where it is only somebody at OMB that can give testimony here, after they have put all these things together, then we will have a completely different way of operating than we have ever seen throughout the history of this country. It has always been sort of a give-and-take as to how far we went with this.

But this situation where we take a man's scientific opinion, and it is somehow scrubbed and tilted in a certain direction for other reasons. We are aware Mr. Reilly wanted to go to Geneva or wherever and he wanted to testify. He wanted to make big proposals for global warming and the importance of formulating a proposal and getting an international group going on this issue. We are also aware there was opposition to this in the White House. There were some questions about this.

Now, here is a man and he is going to testify today before a Committee, and he is going to give his views that might correlate with some of that. Well, OMB obviously, at least it implies here—and I think probably is correct—OMB in enforcing the decision that Reilly would not go over and make this speech, does not want anybody coming in building the case for all the bad things that are going to happen under global warming. So that tilts too much, I feel, in one direction. I think that is where this issue fits.

Go ahead. I am sorry.

Senator **Stevens**. Well, if you sat beside this man, you would not argue with him in terms of what he says. And I agree with what he says.

On the other hand, I know Members and you know Members who look for witnesses who will tell them, tell the public what they want them to hear. And they pick only the witnesses that would agree with them, and they do not pick the witnesses that would disagree with them. As a consequence, we get a slanted point of view from some of these hearings.

Now, all I am saying is that the person that has got to coordinate this on a national and international basis for the President is you. I do not want to continue this debate, but I do believe there is a role for you as the President's watchdog in terms of when conclusions are to be announced as far as official United States conclusions based on facts, and also help him coordinate the policy that the administration is going to follow.

At the same time, as the Chairman says, the Congress has the right to call on these individuals and have them state their own personal opinions, but that does not mean that they have got the right to speak for the Government of the United States until you assist the President in determining what that policy is going to be and how it is going to be announced.

So I, for one, defend the right of the President to control that timing of the decision, and I think it is in the best interest of our country that that be done.

My time is up.

Chairman **Glenn**. Go ahead.

Senator **Stevens**. No, that is all right. I will be here.

Chairman **Glenn**. Senator Levin?

OPENING STATEMENT OF SENATOR LEVIN

Senator **Levin**. Thank you, Mr. Chairman. Let me join in your welcome of Mr. Diefenderfer.

You have given us a statement as to where you intend to recuse yourself, and we welcome that. I think you have gone beyond what the law requires you to do in this. It is important, since you have done this, though, that it be something which is clear and not later on create problems. It is intended to avoid problems. I have some questions on it.

You indicate that you are going to, in order to avoid an appearance of conflict, recuse yourself from any particular tax legislative matter or particular activity or before the IRS "involving all firms or groups I represented on tax legislative matters or before the IRS." I think it might be useful, since you are going the route you are going—which I think is the right route, and we welcome and congratulate you for—if you might sit down with our staff on this and talk about the extent of the recusal, because it does not strike me as being particularly logical. I do not know that there is a logical way to do it, by the way, but you should at least try.

For instance, why would you limit it to a particular activity before the IRS? What about activities before other agencies where you represented people?

Mr. **Diefenderfer**. I do not believe in tax matters that I represented these people before any other agencies.

Senator **Levin**. Then you would not have to limit it. You could just say, "where I represented someone before any agency," since that would cover——

Mr. **Diefenderfer**. Well, sir, it would not bother me to do that. I was specific because, in fact, I had appeared before the staff of the IRS, and I wanted that to be clear.

Senator **Levin**. I think that your intention here is good and, again, beyond what the law requires. I would only suggest that you sit down with our staff and try to phrase this in a way which will not create unwelcome problems later out of the best of intentions.

Mr. **Diefenderfer**. I would be happy to do so.

Senator **Levin**. Also the question of whether you represented people on matters other than tax matters is another example where you might not want to limit yourself to that. Where you represented somebody on any matter, you may want to make this same kind of recusal. Again, your tax representation may have been 99.9 percent, or, indeed, 100 percent of the representation, but it still might not be wise to create what looks like an unintended loophole.

Mr. DIEFENDERFER. I am glad to sit with the staff and try to draft it to the staff's and your satisfaction. But I think I have recused myself from all areas that involve the Federal Government or legislative activities that I had before the Congress.

I have had clients, talking about real law clients, and those ranged from contract negotiations to pure legal advice. And I have not recused myself in those instances. If that is a matter that staff would like to discuss, I am willing to discuss it.

I thought in terms of appearance that that would not be a problem. The appearance question generally, in my judgment, pertains to my relationship within the Federal branch, both executive and legislative, and I attempted to address that.

But, once again, I am more than happy to sit with staff and to make——

Senator LEVIN. My only suggestion is if you are going to address the appearance problem—and I am glad you are—that it be done in a more generic way. That is all I am suggesting.

Mr. DIEFENDERFER. Fine. I am happy to discuss it, sir.[1]

Senator LEVIN. There is no particular logic if you represented someone on a legislative matter before the Congress that you would not recuse yourself, but if it were a tax legislative matter that you would.

Mr. DIEFENDERFER. That is correct, sir. That is correct.

Senator LEVIN. The same thing on the other point that I mentioned. I do not think it is so much that the staff would be asking you to do this because, again, I think you have gone beyond what the law requires. It would just be that there be something logical worked out that you would be comfortable with that would not create an unintended trap for you later on.

Mr. DIEFENDERFER. I am all for logic.

Senator LEVIN. You are all for what?

Mr. DIEFENDERFER. Logic.

Senator LEVIN. Let me start on a slightly different area. I would like to talk to you about the catastrophic health insurance bill and the administration's position on that. Senator Bentsen has recently indicated that, according to the most recent estimates by the Joint Committee on Taxation, that the supplemental premium is going to generate perhaps $5 billion more from 1989 to 1993 than was originally projected when the law was passed; and that if that is the case, he would then support reducing the supplemental premium by the amount of the unanticipated revenue.

Now, my understanding is that the President has indicated he would not support reducing that supplemental premium. My question is: If, in fact, if it becomes clear that the supplemental premium is generating more revenue than was previously projected, then will the President support reducing that premium?

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[1] See May 11, 1989 letter to Senator Glenn on p. 67.

Mr. **Diefenderfer**. Sir, in my judgment, there are two parts to this question. First, is, in fact, the premium generating more revenue than anticipated? And I believe the answer to that is yes. The second question, which is no less important, is: What is going to be the cost of this program?

The premiums are intended to offset the cost. The difference in estimates of cost between CBO and the administration are substantial. I believe the President's position is grounded presently on the fact that we still believe that the costs will match the premiums, or come very close to matching the premiums that are paid in; and, therefore, it would be imprudent to reduce that premium flow and find ourselves short of money at some time in the future.

The logical question is: If at some point in the future we find that the cost estimates do not exceed and, in fact, are much less than the premium flow, would the President support a reduction in the premium? And I cannot answer for the President at this time. I have no way of knowing what he would do, sir.

Senator **Levin**. But would it not be logical, since you do support logic, that the President would then either support a reduction in the premium or an increase in the benefits?

Mr. **Diefenderfer**. If the facts are as limited and as straightforward as we have stated them, that in fact costs are considerably lower and the premium flow is high, that would seem to be a logical conclusion. I am sure that there will probably be many other facts that enter into that decision at that point in time.

Senator **Levin**. You have indicated that it is already reasonably clear to you that the premiums are generating more revenue than previously projected.

Mr. **Diefenderfer**. Yes. I am advised that that is what the Treasury Department people who estimate revenues have said.

Senator **Levin**. All right. Now, is there any indication that the costs are going to be greater than previously projected?

Mr. **Diefenderfer**. We still have the cost estimates that were originally—we are still using the cost estimates that were originally put forward by those who are responsible for that sort of estimating within the administration. There is to be a new study issued at some point in time in the near future from the Secretary of HHS to evaluate or review the costs of the program. That study has not come out as of yet, to my knowledge. I believe he has to hear from two different parts of his Department and to coordinate their ideas and input and then to make an assessment for himself, which will be open for, obviously, OMB review, Treasury review, and administration review for their opinions on accuracy.

Senator **Levin**. Do you know about how much in excess of the projection the revenues now appear to be?

Mr. **Diefenderfer**. I do not have a specific figure, no, sir.

Senator **Levin**. Do you know when that report on the costs is supposed to be prepared?

Mr. **Diefenderfer**. I think it is within a month, sir.

Senator **Levin**. What is the basis, then, of your statement that it still appears that the costs and the revenues will be in sync if we now have a projection that revenues are greater then projected and we do not yet have an estimate as to the costs?

Mr. **Diefenderfer**. We have an estimate of cost from when the legislation was enacted that the administration made. CBO had their own estimate of cost. Our estimate of cost far exceeded CBO's cost. Congress, in its deliberation, tended to agree more closely with CBO's numbers. If our numbers of cost are right, then we are not at all sure that there is much of a margin in terms of the premium.

Senator **Levin**. My time is up. Thank you.

Mr. **Diefenderfer**. Thank you, sir.

Chairman **Glenn**. Thank you.

Jim?

Senator **Sasser**. Mr. Chairman, I am going to pass for the moment.

Chairman **Glenn**. Following up on the clearance of statements and so on, just one final statement on that. I think this case of Dr. Hansen's testimony, which still disturbs me, is one we want to follow through on some. But I think his own words state it very well. The article states, " 'It distresses me that they put words in my mouth. They even put it in the first person,' Dr. Hansen said and added that he had tried to negotiate with the Budget Office over the wording, but they refused to change. 'I should be allowed to say what is my scientific position. There is no rationale by which OMB should be censoring scientific opinion,' Dr. Hansen insisted. 'I can understand changing policy but not science.' "

I guess that summarizes my statement on it, also.

Can you tell us how the President feels or what the policy is about permitting a witness to provide his personal views as opposed to the administration views when specifically asked?

Mr. **Diefenderfer**. No, sir. I cannot tell you what the President feels about it. I have not talked to him on that subject. I know that in my experience, when a witness is asked about his personal views, they generally provide them. I know I would if asked and if I had particular views. There are so many subjects which you do not have specific knowledge about. But I do not know what the President's personal view on this is, sir.

Chairman **Glenn**. That is one of the things we usually ask each nominee here, and on the Armed Services Committee on which I also serve. At confirmation hearings, we get their assurance that, if asked, they will give their personal views in testimony if they are specifically asked to do that.

Do you agree with that, and would you do that?

Mr. **Diefenderfer**. I will, sir. And I agree that Congress—you mentioned before that there are separate branches and we all have our obligations and responsibilities. I would agree with the fact that neither of us can have our own facts. Facts are facts; we have to deal with facts. Your responsibilities are such that if you should value my opinion or anybody else's opinion in making your decisions, we owe you the respect and the duty to give you those opinions.

I would only interject that there are many things that you could ask me today in this large Government of ours which OMB has a purview over that I would not have a clue as to what the right answer is. And in those instances, I would respectfully have to decline because the opinion, if I gave you my opinion, would be uninformed, and you would be ill served.

Chairman **Glenn**. We have another instance that occurred just the other day on the Armed Services Committee. We had the Secretary of Defense and the Chairman of the Joint Chiefs over 1 day; and then we had the other members of the Joint Chiefs over the next day. One of the areas about which I asked specific questions was the V-22, the Osprey. It is an area in which Senator Stevens and I both have an interest. We have followed that program for a long time and think it is very valuable. We have very serious questions about whether it should be canceled, whether if we should have to make cuts, they could come from other areas of the budget or other areas of the defense budget, to limit it to that.

The statements by the members of the Joint Chiefs of Staff that favored the V-22 were either taken out or were altered down. Now, when I asked very specific questions about it, then they were free to give their answers, as they had pledged during their confirmation hearings. But they have to be their personal views. Their official statements, entered into the record in advance, came out all watered down and support for the V-22 omitted.

That is just one other example. I think we have got to work something out or this is going to be a very, very vexing problem for us as we go on. There are going to be many bones of contention on this one.

I think that is something we should work out just as fast as we possibly can, because we are into the season now where we are going to hear testimony on a lot of these issues, back and forth. Senator Stevens is on the Appropriations Committee. They are going to be holding hearings on this. We need to have the best information we can get in these particular areas.

My time is almost up. Senator Stevens?

Senator **Stevens**. You have terminated all your relationship with your firm; is that correct?

Mr. **Diefenderfer**. That is correct, sir. I have sold my interest in the firm and terminated all my relationships with the clients.

Senator **Stevens**. May I inquire, without embarrassing your wife, does your wife still maintain an interest in that firm?

Mr. **Diefenderfer**. No, sir. The only interest she ever had was the fact that I was a member of that firm.

Senator **Stevens**. I see. I thought I saw the name Hoover on it.

Mr. **Diefenderfer**. Oh, I am sorry, sir. That was a second law firm that I belonged to, which includes her brother in Pittsburgh, our Pittsburgh office. And he held an interest in that firm, and still does. I do not.

Senator **Stevens**. You have listed several partnerships in the filing. Do you maintain any of those now?

Mr. **Diefenderfer**. I am a limited partner in two instances. One is apartment buildings. It is a broad limited partnership of which I am merely one member and have no particular sway one way or the other.

In the other instance, it is land which I purchased with four of my friends—five of my friends, excuse me—near Dulles Airport some 2 years ago for investment purposes. And I am a limited partner in that arrangement.

Senator **Stevens**. You are not maintaining any active partnership in any affair?

Mr. **Diefenderfer**. No, sir, I am not.

Senator **Stevens**. Thank you, Mr. Chairman.

Chairman **Glenn**. Thank you.

Senator Levin?

Senator **Levin**. On the question of testimony and changing testimony, are you familiar with this particular testimony of Dr. Hansen that has been referred to?

Mr. **Diefenderfer**. I am only familiar to the extent that I was handed the New York Times article in the car on the way up, sir. I made one phone call——

Senator **Levin**. That is the extent of my familiarity, too, so we are even on that. We are on an equal footing on that.

Do you think it would be proper to substitute language without the consent of the person testifying?

Mr. **Diefenderfer**. Language, sir? Yes, in some cases I think language can be substituted. For example, if they improperly stated Presidential policy on an issue. Facts, which the Chairman addressed, is a wholly different issue. And then the third issue is conclusion from facts, and I believe the President should have the right to have his conclusion, if he chooses to draw a conclusion at that point in time, put forward in the testimony.

Senator **Levin**. Well, but my question is a little different. My question is: Should language be inserted or changed or substituted without the consent of the person who is testifying? Say the person testifying says, "I do not buy it." Dr. Hansen said that an entire additional paragraph served to negate the point of his testimony.

Mr. **Diefenderfer**. My personal opinion is that——

Senator **Levin**. He obviously did not agree to that, and yet it was substituted. My question is: Should language be substituted without the consent of the person testifying?

Mr. **Diefenderfer**. I would state again that if the language that is substituted states policy that is not the President's policy, yes, I would think that that language——

Senator **Levin**. But other than that narrow exception?

Mr. **Diefenderfer**. Well, we at the executive branch would look at that as a broad exception. But other than that, the process, as I understand it and as I would support it, is that OMB suggests to people who are providing testimony that these are changes that we think is consistent with Presidential policy statements, regulatory activity, and they have an opportunity to challenge that.

Now, in this particular instance, I am told third-hand that it was not elevated up the chain of command. I know, in fact, from my brief experience at OMB that when OMB makes suggested changes, they are often, in fact, elevated right up the chain of command to the Director—I should not say often—sometimes to the Director, and sometimes they are resolved at a higher level within the White House. So there is a sort of give and take on this, a chance for people to challenge what OMB has said. In this particular instance, as I have said, I have heard third-hand that it did not go as high even as the Deputy Associate Directors of OMB, that perhaps there were higher opportunities for review of this. But I have no particular knowledge——

Senator **Levin**. I am not interested in the mechanics of it. Would testimony be submitted under somebody's name that that person did not consent to?

Mr. **Diefenderfer**. Ultimately, no, I would guess because they could refuse to give the testimony.

Senator **Levin**. I am not talking about giving it. I want to know about submitting it to——

Mr. **Diefenderfer**. Submitting it, presenting it, they could—they——

Senator **Levin**. Would it be submitted to a Committee under a person's name if that person did not consent to the testimony? That is my question.

Mr. **Diefenderfer**. I would think not, sir, because that person, in my judgment, would have the right to take his name off that testimony if they did not agree with it.

Senator **Levin**. Would you let us know for the record if, in fact, that is accurate?

Mr. **Diefenderfer**. Yes, sir.

Senator **Levin**. Is that what your understanding is?

Mr. **Diefenderfer**. Yes, sir.[1]

Senator **Levin**. I have a couple questions on program evaluation. The Committee submitted to you in advance some prehearing questions about the importance of program evaluation, and you said that, "Program evaluation is central to OMB's role in reviewing the budget. The President has charged OMB with devoting more effort to anticipating long-term problems and opportunities, and program evaluation would be a key ingredient in that effort." I assume that is a reflection of your thinking.

The Comptroller General prepared some transition reports for the new administration—and if you have not read those pamphlets, do read them—on program evaluation. The Comptroller General has found that the capability to perform program evaluation is drying up. He wrote later on that the Secretary of Defense and Congress regularly receive information that contains omissions and inaccuracies in the data. He said that EPA does not know whether many multibillion dollar programs are effective in achieving planned goals because its evaluation information is misleading, inadequate, or incomplete—a whole series of findings like that which are very disturbing.

One other point before I ask the question. In March of 1979, the OMB issued a circular which addressed management improvement and the need for and the use of program evaluation information. That circular, though, was rescinded by the OMB in 1983 and has never been replaced, and there is currently no requirement for Federal agencies to keep and analyze program evaluation information.

Do you support the issuance of another circular on this subject by the OMB?

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[1] See May 11, 1989 letter to Senator Glenn on p. 67.

Mr. **Diefenderfer**. Well, assuming that we can develop a circular that will, in fact, enhance the ability and the results of program evaluation, it would seem to make sense. Yes, sir.

Senator **Levin**. My time is up. I will follow that up later, then. Thank you.

Chairman **Glenn**. Senator Sasser.

Senator **Sasser**. Thank you very much, Mr. Chairman.

I want to join with my colleagues, Mr. Diefenderfer, in welcoming you before the Committee this morning. We had the dubious pleasure of working together for 40 days and 40 nights to try to produce the budget compromise, which has been so enthusiastically received by members of this body and also by the body politic generally.

I was a little chagrined, though, to note yesterday, just in a casual perusal of the Sunday press, that this budget agreement was referred to by one report as a "fraud." And I have heard it referred to as a "conspiracy."

Let me just ask you this, Mr. Diefenderfer: How deeply did you participate in preparing this budget compromise? Were you in at the beginning of this thing? Did you work with those who prepared the economic assumptions on which a large part of it was based?

Mr. **Diefenderfer**. No, sir. The economic assumptions were detailed before I got there. That is not to say that if I were there I would have affected them in any way. I would note, as you well know, sir, that there has to be a reassessment of the economic assumptions I believe some time in July. And I will be there for that, God and the Senate willing, and will have to answer responsibly at that time.

Senator **Sasser**. Well, it is your view, I would surmise, that this budget agreement does contain genuine deficit reduction. Is that not a fair assessment?

Mr. **Diefenderfer**. Yes, that is a fair assessment, and I think it does much more than that. I have suffered, as I know you have, the slings and arrows of "tiny," "meager," "fraud," "smoke and mirrors." In my judgment, there is genuine budget savings achieved in this agreement, but there is something that is much more important, in my judgment. What has been achieved is the beginning of a process where we can trust one another, a Republican executive branch and a Democratically controlled Congress, to move forward to next steps. The President called this the first manageable step. I think it is very important.

Without commenting on the political nature of this event, I was present one early morning in 1985 when the Senate passed what was then viewed as a significant budget reduction measure. As I remember, Senator Wilson was wheeled on to the floor a day or so after having an appendectomy. The Vice President broke the tie vote. It was a vote basically along partisan lines and would have provided significant budget deficit reduction, although there were very many political problems attendant with it.

The next day, as we all know, the President, who was a Republican, disagreed with it. The Speaker of the House, who has since changed but was certainly a Democrat, disagreed with it. And it fell apart.

If we are going to address the budget problem that faces the Nation, we have to do it by having Republicans and Democrats arm in arm move up to the precipice of the major decisions that have to be made. One party cannot do it alone.

I think what was achieved in this first manageable step was the beginning of that relationship. I expect to see further steps in the future.

Senator SASSER. That is a fine statement, and I for one appreciate it. Let me just point out here, as I understand it, these economic assumptions, which I suppose are the basis on which most of these accusations are made, actually demonstrate that under OMB economic assumptions, the revenue predictions for fiscal year 1990 are lower than the revenue predictions of CBO. Is that an accurate statement?

Mr. DIEFENDERFER. That is not only an accurate statement, sir. That——

Senator SASSER. So CBO is more optimistic and has more of a rosy scenario on revenues coming into the Federal Government than OMB does.

Mr. DIEFENDERFER. That is absolutely correct, and I would mention that the reports that we have received for the revenues that the Federal Government has taken in in April exceed our estimates anywhere from 15 to 20 billion dollars. We are off by that much in one month, toward the CBO predictions. So it looks as if CBO is much more accurate just in the revenues for this last month.

It only goes to underscore the uncertainty of many of these economic statistics that we use. We do the best we can. We can all be accused of shading to our side or toward our preference. But in this instance on the revenues, in fact, CBO has a rosier assumption than we do and seems to have been accorded more credibility with the April revenue figures that have just recently been released.

Senator SASSER. Well, I do not come here this morning as an apologist for OMB and for their figures. But I will just ask you, do you know of any historical precedent for an administration taking a pessimistic view when they issue their economic assumptions and their projections of economic growth? I do not.

Mr. DIEFENDERFER. Sir, I do not know of any historical precedent; further, I would state that when we do take our position on what we believe the economics will be in the future, we assume enactment at that time, as we must and should, of the President's proposals. And we can debate about whether or not we make the right assumptions on those proposals, and we do not always have all of our proposals enacted. But that is another reason that you will find a difference between CBO and OMB assumptions. They do not make the policy judgment that the President's proposals will be enacted in determining their budget numbers.

Senator SASSER. Just two more questions, if I may, Mr. Chairman.

Well, after all of the dust is settled from the bombast that has ricocheted around the walls of the Senate chamber and the House chamber and out of the media over the past week or 2, is it not a fair statement that the difference between CBO economic assumptions and OMB economic assumptions amounts to approximately $9 billion with regard to deficit predictions?

Mr. Diefenderfer. Yes, sir. That is an accurate statement.

Senator Sasser. And both CBO and OMB are simple guesses? There is no certainty as to whether or not these economic assumptions will be reality; is that not correct?

Mr. Diefenderfer. That is absolutely correct.

Senator Sasser. So what you really have is a difference between these two predictors—that is, OMB and CBO—of somewhere between 6 and 7 percent overall as to their deficit figures.

Mr. Diefenderfer. That is correct, sir.

Senator Sasser. And that is the basis on which most of these charges have been leveled at those who try to put together this budget compromise.

I think that is a point, really, that needs to be made and spread upon the record here this morning, Mr. Chairman.

Mr. Diefenderfer, you do not intend as Deputy Director of OMB to be a party to any fraud or conspiracy to deceive the American people, do you?

Mr. Diefenderfer. No, sir.

Senator Sasser. I would not think so. You have a very distinguished record of public service here in this Congress. You, I think, reflect the finest traditions of the public service. You come back into the service of this administration, leaving the private sector, where I am confident you could do much better for yourself from a material point of view. And I want to welcome you back and say that I intend to support you on the floor of the United States Senate. And I think you are going to be an excellent Deputy Director of the Office of Management and Budget.

One final question. What is the Airline Passengers of America Association that I notice that you have represented in times past?

Mr. Diefenderfer. Well, I did not actually represent them, sir. I was asked to be on their advisory board of directors. It was a group of people and interested parties in the airline industry who thought that passengers were not being well represented in Washington and not well heard by the airlines.

Senator Sasser. How do you sign up for that group? I would like to become a charter member. [Laughter.]

Mr. Diefenderfer. They will probably call you this afternoon, sir.

Senator Sasser. Thank you.

Thank you, Mr. Chairman.

Chairman Glenn. Let me follow up on that one just a little bit. The Airline Passengers of America was formed to protect the rights of airline travelers. One of their main concerns has been whether we are willing to spend money out the Aviation Trust Fund.

Mr. Diefenderfer. Yes, sir.

Chairman Glenn. We have not been willing to do that to upgrade airlines, to upgrade towers and to upgrade air control. For the last 8 years, we have been saddled with the money in the budget to do these things, in the Highway Trust Fund, the Airport and Airway Trust Fund. Yet, because it shows up as a worse deficit if we spend any money out of it, we will not spend the money.

When are we going to break some of that loose so the airline travelers can get their due in this country, which I think is very important?

Mr. DIEFENDERFER. I could not agree more with you, sir. When I served on the Senate Commerce Committee, which has jurisdiction over the FAA and the creation of the trust fund, we argued that a trigger tax be enacted, so that if the money was not spent from the fund, the tax would either be reduced or curtailed. Then I went to the Finance Committee, and some time later that was, in fact, adopted. And it may be triggered this year.

I would say that there are two parts to this equation, and I think I can say this with fair accuracy. One has been some administrations in the past reluctance to spend the money because of the deficit consequence. Secondly, because of the luck of the draw in Appropriations Committees in both the House and the Senate—and when an Appropriations Committee is assigned its so-called 302(b) levels—they find themselves competing, even though they are a trust fund, with several other powerful interests who, at times, have been more powerful than the aviation community in getting their fair share of that allocation.

I think on our part, I will advocate—hopefully successfully—a fair proposal on the administration's part to advocate release of moneys from this trust fund to meet the needs of the system.

The second part of the responsibility will lie here, and I think that will be a continuing problem; as I have observed it in the past, anyhow, I think it will be a continuing problem.

Chairman GLENN. The view of that airline passenger group was either use the money for what it is being collected or stop collecting it, one or the other.

Mr. DIEFENDERFER. Right.

Chairman GLENN. To follow up on that a little, do you favor taking the Airway Trust Fund off budget?

Mr. DIEFENDERFER. I do not think I do, sir. My mind is unsettled about this off budget question, not just about the Airway Trust Fund but about many other activities. I read an article, for example, this weekend about Government-sponsored enterprises: Fannie Mae, Ginnie Mae, Connie Lee, all the names that we know of. They are, indeed, off budget, and they may represent one of the next biggest problems or potential problems akin to the savings and loan crisis that we have been confronted with.

I would not right now favor taking anything off budget—this is a personal viewpoint—until I was absolutely sure that that entity could not further incur debt which the United States and the taxpayers of the United States would be responsible for. I think it would be an irresponsible step to do so.

Chairman GLENN. Well, in the Airway Trust Fund we have some $6.5 or $7 billion, supposedly collected on an 8 percent tax every time we fly, that is to be used for a very earmarked, specific purpose, and yet we will not spend money out of it. I used to talk to Don Engin, when he was head of FAA, about why we could not move and do some of these things. I wanted to get a move on them. He, in turn, was trying to get from Mrs. Dole, in Transportation at that time, money to do it. He could not, though because the admitted reason was it would show up as a greater bottom-line deficit. That was the only reason.

We have several. We have the Highway Trust Fund also sitting there. It is a surplus right now. It is earmarked funds. But because it is part of the unified budget, we cannot repair the 25 to 30 percent of the bridges—as we drive down the interstate highway system, something like 20 percent of the bridges are deemed to be in serious need of repair. We cannot spend it because it showed a bigger bottom-line deficit.

I used to be in favor of absolutely unified budgets so that taxpayers knew unequivocally what their total bottom line was. It was not off in a lot of little funds. I have done a 180 degree turn on my opinion. I now favor taking those things off budget, and as soon as possible, so they can be used to finance the infrastructure work that needs to be done in this country. The money is collected for that; it is stated for that; it is earmarked for that. Yet the only reason for not spending it for those purposes is the bottom line of the unified budget.

Well, I hope we can reconsider that one. Let me get back to following up on Senator Sasser—well, my time is up.

Senator Levin.

Senator **Levin**. Thank you, Mr. Chairman.

Going back to where we left off on program evaluation, the President has charged the OMB with devoting more effort to anticipating long-term problems and opportunities, according to an answer you gave the Committee. You also said that program evaluation would be a key ingredient in that effort.

Now, without a new circular in place of the one that has been rescinded by the OMB, how are you going to show the emphasis on program evaluation that you say is so critical, that is a key ingredient? We do not have an OMB circular. We have a vacuum there, and according, again, to the Comptroller General, we have some real lapses in the area of program evaluation in the executive branch.

Mr. **Diefenderfer**. Well, I think there are a number of ways, and I would not preclude issuing a circular when enough thought had been put into it and the circular would do the job that it was intended to do.

First of all, we have begun under the direction of Director Darman to look at issues in the long term. Now, we have just begun to do that, and we have no conclusions to present. The second thing that I would mention is that in the prior administration, they started something that was called "Reform 1988," and I think GAO has concluded that it had made some important strides in the reform area, but that in the area of policy implementation and program service delivery it was lacking. We intend to try to help take the next step in that area by combining the resources of the management side and the budget side and the financial reporting responsibilities that OMB has to analyze programs with all 3 groups participating in the analysis.

Additionally, there are a number of things that we are looking forward to considering. The adoption of a management-by-objectives system, it was in the President's program which he announces in Building a Better America. Since that point in time, the agencies have been challenged to respond to the President's objective by indicating to us, to OMB, what they think some proper objectives, three or four objectives would be—a limited number to start with.

Senator LEVIN. Would you initiate a meeting with the Comptroller General to discuss with him what he perceives as major gaps in program evaluation which he has outlined in those transition reports?

Mr. DIEFENDERFER. Yes, sir.[1]

Senator LEVIN. Okay. I think that is the best way to do it, for him to describe what is missing and then for you to hear firsthand from him. If you could let us know what the outcome of that meeting is, we would appreciate it.

Mr. DIEFENDERFER. I would be glad to do so, sir.

Senator LEVIN. Perhaps in the next few months.

I want to go back just for a minute to the question of that catastrophic health insurance. I have been giving a little thought to your answer. The hypothesis is that you are satisfied, after you receive the analysis of what the outlays are going to be, that they are going to be less than the revenues. That is my hypothesis. That is a conclusion that you reach. So basically the tax is producing more than what is needed, or I guess you would call it a user fee or whatever you want to call the fee that is charged for this program.

If you become satisfied at that point, you said it might be logical then to reduce the tax down to what is needed, but there could be other factors that would be present at that time. What factors are you talking about?

Mr. DIEFENDERFER. Well, these are just hypothetical. Another factor might be that perhaps there are additional services needed.

Senator LEVIN. Benefits.

Mr. DIEFENDERFER. Benefits.

Senator LEVIN. You might want to increase the benefits.

Mr. DIEFENDERFER. Exactly.

Senator LEVIN. All right. But if you do not increase the benefits to use up that surplus and you continue to have a surplus, would you then recommend that the tax be reduced to what is needed so it is truly a use fee? Or can you conceive of circumstances where you might want to use that surplus for deficit reduction?

Mr. DIEFENDERFER. No, sir.

Senator LEVIN. Pardon?

Mr. DIEFENDERFER. I do not conceive of circumstances where that should be used for deficit reduction.

Senator LEVIN. If it were used for deficit reduction, would it then be a tax instead of a user fee, to that extent?

Mr. DIEFENDERFER. Well, my personal opinion is it is a tax, sir.

Senator LEVIN. Okay. So whether or not it is used for deficit reduction, it is a tax. All right.

Mr. DIEFENDERFER. Maybe somebody in the administration has represented that, and if they are higher than me, then so be it. But I am not sure if anybody has represented it as a user fee. It is clearly a tax for a specific service.

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[1] See May 11, 1989 letter to Senator Glenn on p. 67.

was afraid to go to parties with because people would accuse you of violating that rule. But I did observe it, and I have no qualms about my conduct in that situation whatsoever.

Chairman GLENN. For the record, during that 1-year period after leaving your position in the Senate, did you ever lobby the members of the Senate Finance Committee?

Mr. DIEFENDERFER. No, sir.

Chairman GLENN. For the record, did you ever in the course of these other contacts of any kind attempt to influence the passage of any legislation on behalf of a client?

Mr. DIEFENDERFER. Did I attempt to influence the passage of legislation?

Chairman GLENN. Yes.

Mr. DIEFENDERFER. Absolutely, sir. Not in that Committee or before that Committee, but Government-wide.

Chairman GLENN. Not with any of your previous associates on that Committee or anything like that?

Mr. DIEFENDERFER. Oh, no, sir. Absolutely not, sir. I am sorry. I mis-heard you.

Chairman GLENN. During that 1-year period after you left the Senate, did you ever lobby the staff of the Senate Finance Committee?

Mr. DIEFENDERFER. No, sir.

Chairman GLENN. We have other things with which we could continue, but I think we have covered it pretty much. We have hit upon all the areas of major concern here. We may have other questions we would like to have you respond to in writing, as other members who were not able to be here today may have some areas of concern they wish to address.

Do any of the other staff members representing other people have anything they wish to bring up?

[No response.]

Chairman GLENN. Fine. Thank you, Mr. Diefenderfer. We look forward to working with you over there at OMB. We will get all the paperwork done on the hearing; we will vote you out at the earliest possible time we can. I know you have been at OMB working anyway, so it is not as though you are not on the job.

Mr. DIEFENDERFER. Yes.

Chairman GLENN. Let me say, in case anyone questions that, this Committee agreed with Mr. Darman when he requested that you be permitted to work over there without the title, working there, helping him, and we agreed to that in advance. So I do not want anyone to criticize you for already being on the job at OMB. That was done with our full knowledge and cooperation. So we look forward to working with you.

I think OMB has a greatly increased role to play, certainly in the area of management that I talked about this morning. I know Mr. Darman's and your feelings about this, and we want to work closely with you. If there are increased numbers of people needed to do the job you have to do, which is so vitally important, let us know. Let us work together on that. Do not let this feeling that you need to set an example interfere with the work that has to be done over there. That is the important thing. So we look forward to working with you in the years ahead, and good luck to you.

Mr. DIEFENDERFER. Thank you, sir.

Chairman GLENN. This hearing will stand in recess subject to the call of the Chair.

[Whereupon, at 12:22 p.m., the Committee was adjourned, subject to the call of the Chair.]

APPENDIX

BIOGRAPHICAL INFORMATION REQUESTED OF NOMINEES

A. BIOGRAPHICAL INFORMATION

Question 1. Name: (include any former names used.)

Answer. William Martin Diefenderfer III (Bill).

Question 2. Position to which nominated:

Answer. Deputy Director/Office of Management and Budget.

Question 3. Date of nomination:

Answer. February 2, 1989.

Question 4. Address: (List current place of residence and office address).

Answer. Residence: 10916 Belgravia Court, Great Falls, VA 22066.

Office: Office of Management & Budget, Old Executive Office Building, Room 252, 17th Street & Pennsylvania Avenue, N.W., Washington, D.C. 20503.

Question 5. Date and place of birth.

Answer. Date: May 3, 1945.

Place: Sharon (Mercer County), Pennsylvania.

Question 6. Marital status: (Include maiden name of wife or husband's name).

Answer. Married 8/7/76; Wife's Maiden Name: Sandra J. Hoover.

Question 7. Names and ages of children:

Answer. William Diefenderfer (10 years old) 3/19/78; Barret Diefenderfer (9 years old) 12/14/79.

Question 8. Education: List secondary and higher education institutions, dates attended, degree received and date degree granted.

Answer. 9/73 to 10/74, University of London/Kings College, L.L.M.; 1/72 to 1/73, 9/67 to 6/70 (interrupted for Army), Duquesne University/School of Law, J.D.; 9/63 to 6/67, Dickinson College, Major: English and History, Degree: B.A.; 9/70 to 5/71, University of Alaska, No Degree (6 credits towards Masters in English Literature); 6/66 to 8/66, Youngstown College, No Degree (credits earned towards B.A. received from Dickinson College); and 9/51 to 5/63, Hickory TWP. Schools, High School Diploma.

Question 9. Employment record: List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment. (Please use separate attachment, if necessary).

Answer. Date: 10/86 to 2/89; Title/Description of Job: Named Partner (law firm); Employer: Wunder & Diefenderfer; Location: 1615 L Street, N.W., Suite 650, Washington, DC 20036.

Date: 1/85 to 10/86; Title/Description of Job: Chief of Staff; Employer: U.S. Senate Committee on Finance; Location: United States Senate, Washington, DC 20510.

Date: 4/83 to 1/85; Title/Description of Job: Attorney, Member, Board of Governors; Employer: McNair, Glenn, Knoduros, Corley, Singletary, Porter & Dibble, P.A.; Location: 1155 15th Street, NW, Washington, DC 20005.

Date: 5/79 to 4/83; Title/Description of Job: Majority Chief Counsel (1/81 to 4/83); Minority Chief Counsel 4/79 to 12/80; Employer: U.S. Senate Committee on Commerce, Science and Transportation; Location: United States Senate, Washington, DC 20510.

Date: 3/79 to 5/79; Title/Description of Job: Staff Attorney; Employer: Council of Chief State School Officers; Location: 400 North Capitol Street, Washington, DC 20001.

Date: 1/79 to 3/79; Employer: Unemployed; Location: Washington, DC.

Date: 1/77 to 1/79 [1]; Title/Description of Job: Legal Counsel; Employer: U.S. House of Representatives (Cong. Bruce Caputo); Location: Washington, DC.

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[1] 3 month leave of absence in 1978 to work for Caputo for Lt. Governor Committee.

Date: 4/76 to 1/77; Title/Description of Job: Assistant Director; Employer: Domestic Council/ The White House; Location: Washington, DC.

Date: 3/75 to 4/67; Title/Description of Job: Staff Counsel; Employer: Committee on Education & Labor, U.S. House of Representatives (Cong. Ed Eshleman—deceased); Location: Washington, DC.

Date: 10/74 to 3/75; Employer: Job search/unemployed; Location: Hermitage, PA.

Date: 10/73 to 10/74; Title/Description of Job: Pursuing L.L.M. at the University of London; Employer: None; Location: London, England.

Date: 12/71 to 9/73; Title/Description of Job: Regional Director; Employer: Pennsylvania Higher Education Assistance Agency; Location: Harrisburg, PA.

Date: 6/70 to 12/71; Title/Description of Job: Legal Clerk/Spec. 4th Class; Employer: U.S. Army; Location: Served at Ft. Wainwright, Alaska, and with the Military Advisors Command, Viet Nam.

Date: 8/67 to 6/70; Title/Description of Job: Regional Director; Employer: Pennsylvania Higher Education Assistance Agency; Location: Harrisburg, PA.

Date: 6/66 to 9/66; Title/Description of Job: Laborer; Employer: Planned Interiors; Location: Sharon, PA.

Date: 6/65 to 9/65; Title/Description of Job: Laborer; Employer: Planned Interiors; Location: Sharon, PA.

Date: 6/64 to 9/64; Title/Description of Job: Laborer; Employer: Sharon Steel Corp.; Location: Farrell, PA.

Date: 6/63 to 9/64; Title/Description of Job: Construction Laborer; Employer: PIC Electric; Location: Sharon, PA.

Question 10. Government Experience: List any advisory, consultative, honorary or other part-time service or positions with Federal, State, or local governments, other than those listed above.

Answer. None.

Question 11. Business relations: List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business enterprise, educational or other institution.

Answer. Wunder & Diefenderfer—Named Partner, (Resigned 2/89).

Strategic Planning, Inc. (Formerly: W&D Consultants)—Director (Resigned 1/89).

Dickinson College—Member, Board of Advisors (Resigned 1/89).

LOKI Limited Partnership—General Partner (Became Limited Partner 2/89).

Wunder, Diefenderfer, Sheinbert & Hoover—Partner (Resigned 2/89).

Airline Passengers of America—Advisory Board Member (Resigned 1/89).

Policy Communications, Inc.—Director, Treasurer, Stockholder (Resigned and sold stock 1/89).

Baldar, Inc.—Stockholder, Director (Resigned and sold stock 1/89).

Vezir Race Horse Partnership—Sold interest 2/89.

Steelmill Race Horse Partnership—Purchased 100% of ownership 2/89.

My Three Love Race Horse Partnership—20% Partner (dissolved 1988).

Smiling Cynda Race Horse Partnership—20% Partner (dissolved 1988).

McNair Glenn Konduros Corley Singletary Porter & Dibble, PA—Board of Governors 1984 (Resigned 1/85).

Question 12. Memberships: List all memberships and offices held in professional, business, fraternal, scholarly, civic, public, charitable and other organizations.

Answer. Member: American Bar Association, D.C. Bar Association, Pennsylvania Bar Association, 116 Club, Beta Pi of Kappa Sigma Alumni Ass'n, Raccoon Creek Gunning Club, Big Horn Canyon Hunting Club, and Veterans of Foreign Wars.

Question 13. Political Affiliations and Activities:

a. List all offices with a political party which you have held or any public office for which you have been a candidate.

Answer. None.

Question 13b. List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.

Answer. Organized and hosted a fundraiser for Senator Jack Danforth on April 21, 1988.

Organized and hosted a fundraiser for Senator Malcolm Wallop on November 12, 1987.

Organized several fundraisers for Senator Bob Packwood in 1984.

Campaign manager, 1978, New York State Republican Lt. Governor Campaign.

Question 13c. Itemize all political contributions to any individual, campaign, organization, political party, political action committee, or similar entity of $50 or more for the last 5 years. This question has been answered as fully as my records and the Federal Election Commission records allow.

Answer. 1989: Pennsylvania Republican Party ($100.00).

1988: Conrad for Senate ($1,000.00), Chafee for Senate ($1,000.00), Durenberger for U.S. Senate ($1,000.00), Sen. Danforth ($2,000.00—Primary & General), Sen. Trent Lott ($1,000.00), Engleitor for Senate Comm. ($500.00), Tauzin for Governor ($5,000.00), Bentsen for Senate ($1,000.00), Tom Foley for Congress ($1,000.00), Sen. Dole ($1,000.00), George Bush for President ($500.00), Don Ritter for Congress ($500.00), Rauschenbach for State Senate ($500.00), Hank Brown for Congress ($250.00), and Lloyd Anderson for Mayor ($100.00).

1987: Congresswoman Connie Morella ($250.00), Cooper for Congress ($500.00), Dole for President ($1,000.00), Sen. Wallop ($2,000.00 Primary and general), and Havens for Congress ($1,000.00).

1986: None.

1985: None.

1984: Reelect Thurmond ($1,000.00), Ashe for Senate ($500.00 Primary), John Warner ($1,000.00), Mark Hatfield ($1,000.00), and Jim Florio ($500.00).

Question 14. Honors and awards: List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals and any other special recognitions for outstanding service or achievements.

Answer. National Defense Service Medal, Vietnam Service Medal W/2 Stars, Vietnam Campaign Medal W/60 Device, and Eagle Scout.

Question 15. Published writings: List the titles, publishers, and dates of books, articles, reports, or other published materials which you have written.

Answer. I have published one article titled "Proposed Federal Legislation and The Next Decade of Television" in Law and The Television of The 80's, 1983 by N.Y.U. School of Law, Published by Oceana Publications.

Question 16. Speeches: Provide the Committee with three copies of any formal speeches you have delivered during the last 5 years which you have copies of and are on topics relevant to the position for which you have been nominated.

Answer. I have spoken many times in the last five years, but never from prepared text. I speak from handwritten notes that are not retained.

Question 17. Selection: a. Do you know why you were chosen for this nomination by the President?

Answer. Please refer to 17(b).

b. What do you believe in your background or employment experience affirmatively qualifies you for this particular appointment?

Answer. OMB's responsibilities are government-wide. I have had significant and diverse experience with large segments of the government in the Legislative and Executive Branches. I have participated at the staff level in the development of several major pieces of legislation including the Tax Reform Act of 1986, Gramm-Rudman-Hollings Deficit Reduction Act, deregulation of the trucking and bus industries, as well as several reconciliation bills. The passage of each required legal, legislative, political, management, and negotiating skills.

I believe that some of my aforementioned activities may have come to the attention of those who offered counsel to President Bush in choosing a nominee for the Deputy Director of the Office of Management and Budget.

B. Future Employment Relationships

Question 1. Will you sever all connections with your present employers, business firms, business associations or business organizations if you are confirmed by the Senate?

Answer. Yes.

Question 2. Do you have any plans, commitments or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, explain.

Answer. No.

Question 3. Do you have any plans, commitments or agreements after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization?

Answer. No.

Question 4. Has anybody made a commitment to employ your services in any capacity after you leave government service?

Answer. No.

Question 5. If confirmed, do you expect to serve out your full term or until the next Presidential election, whichever is applicable?

Answer. Yes, subject to the pleasure of the President.

C. Potential Conflicts of Interest

Question 1. Describe all financial arrangements, deferred compensation agreements, and other dealings with business associates, clients, or customers.

Answer. All such financial arrangements, deferred compensation agreements or other such dealings with business associates, clients or customers will be terminated prior to my confirmation hearing.

Question 2. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

Answer. None.

Question 3. Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

Answer. None.

Question 4. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration and execution of law or public policy.

Answer. 1986-88: Wunder & Deifenderfer Clients: Log Export Legislation and timber supply issues generally—H.R. 1587;

H.R. 2532 A bill to amend title V, U.S. Code, to include Inspectors of the Immigration and Naturalization Service, Inspectors of the U.S. Customs Service, and Revenue Officers of the Internal Revenue Service within the immediate retirement provisions applicable to certain employees engaged in hazardous occupation;

Technical corrections to the Tax Reform Act of 1986; and

Legislation creating third party right of access to satellite delivered programming.

1985-10/86: None. Employed by the United States Senate Committee on Finance.

1983-84: McNair Law Firm Clients: Legislation with respect to financial interest rules and syndication rules;

Deregulation of old gas;

Legislation blocking takeover of an oil company;

H.R. 4170 Tax legislation affecting depreciation of telecommunication satellites;

Loss of broadcast license by one corporation;

Legislation giving antitrust protection to a professional sports league;

Sale of Conrail;

Legislation supporting employee (union) contractual rights in bankruptcy;

S. 1992 In support of legislation benefitting state student loan programs;

S. 19992 In support of Voluntary Employee Benefit Associations (Tax);

S. 2996 Legislation sunsetting the Civil Aeronautics Board;

S. 1992 Municipal bond legislation affecting one Midwestern cities' industrial development.

1979-4/83: None. Employed by the United States Senate Committee on Commerce, Science and Transportation.

My answer to this question does not reflect any legislative matters I worked on as a Federal employee.

Question 5. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Please provide copies of any trust or other agreements.)

Answer. I know of no conflict. Should one arise I will recuse myself from the matter in question.

Question 6. Do you agree to have written opinions provided to the committee by the designated agency ethics officer or the agency to which you are nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position.

Answer. Yes.

D. Legal Matters

Question 1. Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.

Answer. No.

Question 2. Have you ever been investigated, arrested or held by any Federal, State, or other law enforcment authority for violation of any Federal, State, country or municipal law, regulation or ordinance, other than a minor traffic offense. If so, provide details.

Answer. Yes; arrested in 1984 driving under the influence of alcohol. All charges dropped after completion of diversion program.

Question 3. Have you or any business of which you are or were an officer even been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

Answer. No.

Question 4. Have you ever been convicted (including pleas of guilty or nolo contendere) of any criminal violation other than a minor traffic offense?

Answer. No.

Question 5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

Answer. None.

E. FINANCIAL DATA (RETAINED IN COMMITTEE FILES)

AFFIDAVIT

William Martin Diefenderfer III being duly sworn, hereby states that he has read and signed the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of his knowledge current, accurate, and complete.

RESPONSES TO PREHEARING QUESTIONS

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I. NOMINATION PROCESS AND POTENTIAL CONFLICTS

Question. 1. Were any conditions, expressed or implied, attached to your nomination to be Deputy Director of the Office of Management and Budget?

Answer. No.

Question 2. Have you made any commitments with respect to the policies and programs which you will attempt to implement as Deputy Director of OMB? If so what are they?

Answer. No.

Question 3. Are there any issues involving OMB from which you may have to disqualify yourself? If so, please explain.

Answer. I believe there are no policy, budget, or regulatory issues involving OMB with respect to which I will be legally required to disqualify myself, if I am confirmed. I sold all assets that the Office of Government Ethics thought would create a conflict or an appearance of a conflict. With regard to assets I now hold, I am not aware of any reason that might require disqualification. In response to the Committee's request for biographical and financial information I noted prior relationships with certain firms or groups. To the best of my knowledge, I have no continuing financial interest in any of these firms or groups.

However, to avoid even the appearance of conflict, I intend to recuse myself from:

(1) Any particular tax legislative matter or particular activity before the I.R.S. involving all firms or groups I represented on tax legislative matters or before the I.R.S. This list, fourteen in number, is enumerated and identified in response to supplemental question #1 I provided to the Committee.

(This recusal does not include issues of broad or general policy affecting a larger class of parties of which these companies may be one and will be for one year);

(2) Any particular matter involving United Savings Association of Texas acquisition of failed or failing savings and loan institutions (this recusal does not apply to matters of general policy affecting the Savings and Loan industry.)

(3) Any particular matter involving the Federation of Postal Police Officers as it pertains to labor-management issues. This recusal will be for one year.

(4) Participation in any governmental action directly and specifically addressing the acquisition by Henely Group of a Federally regulated firm.

(5) Participation in any particular matter directly and specifically involving Phillip Morris' compliance with Federal Pension Law (this recusal does not include issues of broad or general policy affecting a large class of parties of which Phillip Morris might be merely one. This recusal will be for one year.)

§ 208. Acts affecting a personal financial interest

(a) Except as permitted by subsection (b) hereof, whoever being an officer or employee of the executive branch of the United States Government, of any independent agency of the United States, a Federal Reserve bank director, officer, or employee, or of the District of Columbia, including a special Government employee, participates personally and substantially as a Government officer or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in a judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which, to knowledge, he, his spouse, minor child, partner, organization in which he is serving as officer, director, trustee, partner or employee, or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment, has a financial interest—

Shall be fined not more than $10,000, or imprisoned not more than two years, or both.

(b) Subsection (a) hereof shall not apply (1) if the officer or employee first advises the Government official responsible for appointment to his position of the nature and circumstances of the judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusatioin, arrest, or other particular matter and makes full disclosure of the financial interest and receives in advance a written determination made by such official that the interest is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect from such officer or employee, or (2) if, by general rule or regulation published in the Federal Register, the financial interest has been exempted from the requirements of clause (1) hereof as being too remote or too inconsequential to affect the integrity of Government officers' or employees' services. In the case of class A and B directors of Federal Reserve banks, the Board of Governors of the Federal Reserve System shall be the Government official responsible for appointment.

(As amended Pub.L. 95-188, Title II, §205, Nov. 16, 1977, 91 Stat. 1388.)

II. ROLE AND RESPONSIBILITIES OF OMB DEPUTY DIRECTOR

Question 1. What do you consider to be the mission of OMB?

Answer. The mission of OMB is to assist the President in the preparation of the budget and the formulation of the fiscal programs of the Government, to supervise and control the administration of the budget, and to aid the President to bring about increased efficiency through improved management of government operations. The mission of OMB additionally includes responsibility for a number of central coordination and clearance functions, such as clearance of agency recommendations concerning proposed legislation and Presidential action on enrolled bills and clearance of Executive orders and Proclamations. Statutory duties of OMB also include overall direction of procurement policy through the Office of Federal Procurement Policy and overall supervision of information and paperwork policy through the Office of Information and Regulatory Affairs. Other management duties have been assigned to OMB by other statutes, such as the Prompt Payment Act, the Debt Collection Act and the Computer Security Act. In essence, the mission of OMB is to act as the President's principal arm for the exercise of his budgetary and managerial functions.

Question 2. What will be your basic role and responsibilities as Deputy Director?

Answer. The basic role and responsibilities of the Deputy Director are to carry out the duties and powers prescribed by the Director and to act as Director when the Director is absent or unable to serve. 5 U.S.C. 502(b). In addition, the Deputy Director performs a number of functions pursuant to Executive Order or OMB regulations. These include the functions of acting as Chairman of the President's Council on Integrity and Efficiency (E.O. 12301), and Chairman of the President's Council on Management Improvement (E.O. 12479). OMB regulations and internal directives also give the Deputy Director various responsibilities regarding standards of conduct, Freedom of Information Act, equal employment opportunity, and Privacy Act matters.

Ultimately, aside from functions conferred by statute or Executive Order, the basic role and responsibility of the Deputy Director is defined by the Director. If confirmed, I expect to become thoroughly involved in the full range of OMB activities as necessary to carry out the duties assigned to me by the Director.

Question 3. How do you envision your relationship and the nature of your responsibilities as they relate to: (a) the Director of OMB; (b) the Administrator of the Office of Federal Procurement Policy; (c) the Administrator of the Office of Information and Regulatory Affairs; and, (d) the Associate directors of OMB?

Answer. (a) If confirmed, as Deputy Director of OMB, I would have responsibilities, under the Director, for all of the activities of OMB. I must prepare myself to function fully and capably in the Director's absence. Therefore, I will involve myself to my fullest capability in each duty, function or role of OMB. I will advise the Director on all OMB policy and program matters and carry out on his behalf, specific responsibilities delegated to me.

(b) The Administrator of the Office of Federal Procurement Policy reports to the Director of OMB. I will have general review of procurement policy, like other matters for which the Deputy Director has responsibility. The Executive Associate Director will have responsibility for advising the Director and the Deputy Director on procurement policy.

(c) The Administrator for the Office of Information and Regulatory Affairs (OIRA) reports to the Director of OMB. The Director intends to task me, if confirmed, with keeping apprised of OIRA activities on a day to day basis.

(d) The Associate Directors of OMB also report to the Director. As Deputy Director, I will routinely be involved in the work they perform for the Director and in specific instances, as delegated by the Director, direct their actions.

Question 4. Do you see any need to revise the current OMB organizational structure?

Answer. Yes. The OMB organizational structure as it existed at the end of the last Administration is currently being revised. In the last Administration, the Director and Deputy Director together supervised all staff and line OMB functions.

It is my opinion that an additional Deputy Director position is needed at OMB. The primary function and focus of this additional Deputy would be management. Some believe that the management functions of OMB are not accorded their full and deserved attention, because the budget functions of OMB dominate the schedule and attention of the Director and Deputy Director of OMB. The creation of an additional Deputy Director position and specifying in Law the management role and responsibilities of this new position will elevate the management functions of OMB to their proper level.

The role of the existing Deputy will not be diminished by such action, but enhanced. The Director's intention is to have the existing Deputy be designated the Primary Deputy. As such the existing Deputy will continue to have the basic responsibilities including those under 5 U.S.C. 502(b) set forth in the answer to question II 2.

Naturally, such a change requires the full participation and agreement of OMB's parent committees in Congress. As you know, we have privately shared our thoughts on this matter with you over the recent weeks.

We also plan to make the Executive Associate Director of OMB a part of the senior management group which currently consists of the Director and Deputy Director. The Executive Associate Director will review all matters requiring the Director's attention concerning Management. The Executive Associate Director will also have special review of the Division of National Security and International Affairs.

Question 5. What role do you anticipate playing in the selection of individuals to appointive positions in OMB which are not subject to Senate confirmation?

Answer. If I am confirmed as Deputy Director of OMB, I will advise the Director on selecting the members of OMB senior staff. I would be actively involved in assuring that all of the individuals appointed to senior positions at OMB are eminently capable and reliable. The qualifications of political appointees will, of course, be subject to White House review.

Question 6. What objectives do you expect OMB to achieve in the next four years?

Answer. (1) Breaking the back of the fiscal deficit in accordance with our legal responsibility under the Gramm-Rudman-Hollings structure.

(2) To insure in a permanent manner that the Management function of OMB receives the attention, resources and support it deserves.

(3) In a time of abnormally limited public resources I would like to focus OMB's attention on the distribution of those resources. To the extent that current public resources flow to those without need they should be redirected to those with need.

(4) To pursue the goals the Director stated in his testimony before this committee in the procurement field, information and regulatory activities, financial management, orienting OMB's vision to long-term issues, and creating a simple Government-wide management-by-objectives system. (Director's response attached.)

ATTACHMENT

Role and responsibilities of OMB Director

Question. What goals do you expect OMB to achieve in the next four years?

Answer. With regard to the budget, a primary goal is set by Gramm-Rudman-Hollings (G-R-H): to meet the G-R-H deficit targets. While considerable progress has been made toward this goal, it will take hard work by Congress and the administration to achieve it. For OMB, this will mean careful scrutiny of budgets, leadership in providing successful overall strategies for deficit reduction, and close attention to management improvements to realize efficiencies wherever possible.

Another OMB goal will be to emphasize and develop a process to give greater emphasis to longer-term investment issues.

In the procurement field, there are a number of areas where I hope we can help to improve the way the Government does business, working with the various procuring agencies and through our Office of Federal Procurement Policy. These include: Developing a Government-wide intellectual property-rights policy, dealing with inventions, technical data, and computer software, that will provide stronger incentives for marketing new technologies; putting into operation the new Federal Acquisition Regulatory Council (made up of OFPP, DOD, NASA, and GSA) included in the recently enacted OFPP reauthorization bill to help streamline and simplify the procurement rule-making process; and providing clear guidance to agency procurement officials and Government contractors on consultant conflict-of-interest and procurement-integrity standards.

If confirmed, my goals for OMB's information and regulatory review activities for the next few years would be to attempt to assure that the benefits to society of regulation outweight the costs of Federal intervention. Information gathering by government is necessary, but we must be vigilant in reducing the burden of unneeded information collections and in minimizing the burden of new collections. In sum, regulation and information collection are critical government activities, but they must be implemented with intelligence, balance, and restraint.

If confirmed, I would intend to complete the implementation of reforms begun by the Reagan Administration. These include: installing financial management systems that will provide financial accounting and management information that is compatible across agencies, integrated at the agency level, and responsive to both financial and budget information needs; and completing the reform of credit systems to assure that they operate under the business rules of the private sector, and that their budget analysis makes clear the subsidies built into each credit program.

I would plan to organize management staff in such a way that increased attention is given to major, long-term issues facing government and society. And, for the nearer term, I would expect to introduce a very simple government-wide management-by-objectives system—to help assure that appropriate attention and resources are focused on a select set of major priorities.

III. Management Reform and Improvement

Question 1. As you know, one of the original reasons the Office of Management and Budget was created from the old Bureau of the Budget in the early 1970's was to give greater emphasis to management policy issues and controls at the Federal level. Time and experience have shown, however, that OMB's management functions are often secondary to OMB's budget-related activities.

Do you have any thoughts on what can be done to redress this imbalance?

Answer. Yes. See Questions II. 4.

Question 2. Please describe what you consider to be OMB's management functions. In your opinion, do these functions include the statutory duties assigned to the Office of Federal Procurement Policy (OFPP) and the Office of Information and Regulatory Affairs (OIRA)?

Answer. As Director Darman has stated, OMB's management functions include evaluation of program performance; assessment of the extent to which programs are actually achieving their intended results, and delivering the intended services to the intended recipients; improvement of government organization; and information and management systems. Director Darman has also stated that more attention needs to be paid to improving strategic planning, major program implementation and program evaluation, as an aid to the Executive Branch and Congress in planning, monitoring and assessing program results and future program needs.

President Bush, in his submission to Congress Febraury 9, 1989, entitled "Building a Better America," singled out credit reform, budget measurement, capital expenditures, longer horizons, and Management by Objectives (MBO's) as being specific management initiatives that he wishes OMB to move forward with.

OMB has a solid record in credit management reform, but we need to make further progress in showing the true subsidy cost of direct loans and loan guarantees. We need agreement between OMB and the CBO on principles for scoring the budgetary impact of actions or proposals; we need to highlight those elements of annual Federal expenditure that are in the nature of capital outlays; and we need to devote more effort to anticipating long term problems and opportunities (there should be early warning of problems like those involving our savings and loan institutions and nuclear weapons facilities). We are developing, as a Presidential initiative, a better system for tracking policy initiatives and priorities (MBO's).

OMB's management functions include statutory responsibilities assigned to OFPP and OIRA.

Finally, we need to strengthen OMB's work with regard to Federal government financial systems. At OMB's initiative, all major agencies have now designated chief financial officers and a Council of CFO's has been established, chaired by the Executive Associated Director and Chief Financial Officer. Nonetheless, financial systems modernization is still years from completion. Working towards this modernization will be a key priority for OMB in the period ahead.

Question 3. What role do you expect to have in directing OMB management functions, and what approach do you think would be most effective?

Answer. My role as OMB Deputy Director, if confirmed, would be one of general review of all OMB functions including its management functions. Day to day responsibility for management will rest with the Executive Associate Director in the short term. I believe this is the most effective approach to OMB management functions.

The Budget Impoundment and Control Act of 1974 and the Balanced Budget and Emergency Deficit Control Act of 1985 (Gramm-Rudman-Hollings) enormously increased the amount of time the Director and Deputy Director have had to spend on annual budget review. The previous Deputy Director had specific responsibility for OMB management functions, but was able to spend only a very small percentage of his time in this area. Making management functions a principal responsibility of the Executive Associate Director will help remedy this situation.

Also see response to questions II. 4.

Question 4. How would you describe the relationship between you, as OMB Director, the Administrators of OFPP and OIRA, and the newly-appointed Executive Associate Director of Management in carrying out management improvement initiatives?

Answer. If confirmed as Deputy Director I must prepare myself to function in the Director's absence. Therefore, I will be generally involved in the functions of both OFPP and OIRA. On a day-to-day basis, the Director has designated me, subject to confirmation, to be fully aware of the functions and actions of OIRA. The Executive Associate Director, by the Director's designation, will perform similarly with respect to OFPP. As Deputy Director, it will be my responsibility to be fully aware of the actions and activities of the Executive Associate Director so as to be able to fulfill my responsibilities to act in the Director's absence.

If and when a Management Deputy (see response to Question II-4) is created it is the Director's intention to assign day-to-day involvement with OIRA to the Management Deputy.

Question 5. What items are on OMB's management agenda? In your judgement does OMB have the resources necessary to fully carry out and implement these objectives?

Answer. As I have previously described, there are a number of pressing items on the OMB management agenda (see III question 2). These include evaluation of program performance, assessment of the extent to which programs are actually achieving their intended results, improvement in government organization, etc.

The FY 1990 Budget request for OMB will provide OMB, if appropriated, with the necessary resources to carry out and implement our objectives.

Additional staff resources for OMB management functions are needed. Viewed discretely, a strong and persuasive case could be made by OMB for additional staff and other resources. From OMB's perspective, the issue cannot be viewed discretely. OMB must assume the leadership role in demanding greater efficiencies and encouraging rational prioritizing of goals to be matched against scarce resources.

I fear OMB would forfeit a credible leadership role if it asked for more than budgeted while asking others to do with budget requests.

Question 6. OMB's Reform '88 has involved some important management improvement initiatives in recent years. What are your views on the accomplishments of this undertaking, and do you plan to continue these efforts? If so, what plans do you have for their future purpose and direction?

Answer. The Reform '88 program has proved to be a major step forward in organizaing and implementing a program to improve overall governmental management.

The Reform '88 effort has led to major improvement in credit management, financial systems, technology, and interagency coordination. It has sensitized everyone, from Cabinet Secretaries to line program managers, concerning the crucial need to carry out the nation's business in the most efficient and effective way possible, and to appreciate the value of providing excellence in service and products to the American people.

Despite substantial progress to date, more work needs to be done and, in some cases, accelerated, to permanently establish a solid management infrastructure. I support completing these plans so that we can have the systems, technology, and the performance evaluation tools in place to assure that Government programs stand ready to provide the services and products demanded in the future.

Question 7. It can be said that the essence of federal management is policy implementation and delivery of program services. Some analysts, however, have suggested that recent OMB efforts, such as Reform '88, focus extensively on administrative improvements at the expense of programmatic or cross-cutting issues. What is your assessment?

Answer. Reform '88 focused principally on the administrative aspects of government operations. I believe that this was an essential first step to beginning the management improvement program. It makes it possible for us to obtain more accurate and complete information about program performance and financing. With that improved information, it will be possible for the Bush Administration to move to the next level of managemnt improvement; i.e., in program-evaluation, long-term planning, and management-by-objectives. This emphasis will allow us to intergrate policy and program issues as a fundamental part of our management program.

Question 8. In a period of tight budgets, the Government can ill-afford to maintain programs which are ineffective, marginal, or no longer necessary. Yet many feel that OMB's budget review process could be better structured to find opportunities for improving program performance and reducing costs. How would you propose to strengthen OMB's capability to evaluate the performance of programs?

Answer. Program evaluation is central to OMB's role in reviewing the budget. Programs which are found to be ineffective, or no longer necessary should be terminated. Programs which are found to be needed and necessary should be subject to regular review to improve their performance and reduce their cost. The budget review process must strive to achieve both goals. The President has charged OMB with devoting more effort to anticipating long-term problems and opportunities, and program evaluation will be a key ingredient in that effort. The Director has also been charged with developing better analysis of the breakdown of outlays between current consumption and those that add to the Nation's future standard of living. I will be working personally to ensure these efforts are successful.

Question 9. The Director of OMB has indicated he intends to establish a management-by-objectives system across government to help assure that appropriate attention and resources are devoted to a select set of major priorities. What issues do you believe should be so tracked and what kind of system would best accomplish this?

Answer. It is the Director of OMB's intention to work with the heads of the Cabinet agencies and EPA to identify a small number of major objectives that the Administration and the agency in question might pursue as Presidential priorities. Once agreed, we would then establish a mutually acceptable tracking system that would allow both the agencies and OMB to see what progress had been made on a quarterly basis. Our view is that these objectives should be set mutually, and therefore it would be inappropriate for OMB to comment on what they should be in advance.

Our key concern is to focus agency heads on a few concrete objectives among the many that are inherent in running their agencies and then to assure that resources are available to obtain these objectives as well as a means for evaluating the results.

Previous MBO systems, have, in our opinion, tried to be too comprehensive. They have tried to require a single centralized tracking system no matter what the objective. It is our view that the tracking systems will need to be tailored to the kind of objective that is envisaged. For example, a legislative objective will require a different tracking system than objectives involving the implementation of a program e.g., reauthorization of the Clean Air Act, on the one hand, versus rebuilding and/or rennovating our nuclear weapons plants on the other. The tracking system for the former would be relatively simple; the tracking system for the latter would be more complicated. But, even with respect to nuclear weapons plants, we would aim for a simple system which tracked a few key indicators that would readily pinpoint progress or lack thereof.

Question 10. As Deputy Director, you will be the head of the President's Council on Management Improvement (PCMI). How will the Council function under your leadership and what priorities do you intend the PCMI to pursue?

Answer. The Administration is in the process of developing and refining its priorities for PCMI. Examples of undertakings that should be considered for high prioritization include:

Providing a role for Deputy Secretaries because recently some of the management agenda has moved beyond the jurisdiction of the Assistant Secretaries for Management.

The upgrade and consolidation of Government-wide Financial Management Systems.

The development of alternatives for procurement reform and more efficient systems of procurement.

The continued promotion and coordination of the development of consolidated administration support projects.

Working with the central management agencies to plan for the modernization of information systems.

Either the Director or myself will chair the PCMI as available. We intend to heavily involve the Executive Associate Director in our activities on the PCMI.

Question 11. It has been suggested, to make the PCMI function more effective, its membership should be reconstituted to consist of agency Deputy Secretaries rather than Assistant Secretaries for Management. What do you think of this proposal?

Answer. I believe there continues to be a clear need for a coordinating group of Assistant Secretaries for Management to carry out Administration and agency management objectives in the areas of finance, procurement, human resources and systems. We intend to retain the Assistant Secretaries group as an intergral part of our efforts to implement management initiatives.

There is also a need, in dealing with the broader issues, to establish a Deputy Secretaries group. This was recommended by the PCMI in its December 1988 Report to the Bush Administration and Director Darman. The purpose of such a group would be to assure management priorities at the agency policy level and to help improve program and service delivery. We are currently exploring how this might best be done and for what specific purposes.

Question 12. OMB has traditional budget oversight responsibilities for all agencies that are involved in pay, benefit, and other personnel policy management functions. What actions do you anticipate taking to make sure various parts of the personnel system are managed and operated efficiently and effectively?

Answer. As a recent OPM-sponsored study points out, the Federal government will need more highly technically qualified staff in the years to come and there may be severe shortages of these people. Several areas need to be thoroughly examined to ensure that the Government competes effectively for technically skilled employees. Areas for review include: the responsiveness of compensation policies to the market in critical skills or in high-cost areas; possible modification of benefit packages to permit greater choice; improved performance appraisals to better distinguish between adequate and superior performance; and additional steps to improve the image of Federal service.

In the compensation area particularly, we will be reviewing pay programs that have already been set up to insure equity and consistency. In addition, we expect to follow closely OPM's work on professional and locality pay differentials, including OPM's use of data collected by the Bureau of Labor Statistics and their recently approved study of these differentials.

Finally, we anticipate that the structure and operation of the Federal Employee Health Benefits (FEHB) program will be reviewed later this year. OPM is very concerned that the FEHB program may not be operating as a true group insurance program, and that enrollees with greater health risks are not proportionally distributed among all health plans. This issue, as well as cost containment and cash management measures in the FEHB, will require continuing involvement by OMB.

Question 13. A couple of years ago, the budget examination functions for the Office of Personnel Management and the General Services Administration were transferred within OMB and reassigned to the Associate Director for Management. Do you anticipate retaining this system? Please explain.

Answer. We plan to maintain the current arrangement. The budgets and operations of OPM and GSA are reviewed by a unified staff of budget examiners and management analysts.

Regarding OPM, we will be facing real challenges in the next several years in adapting the Federal pay and personnel system to attract and retain skilled employees. The task from our standpoint is both a management and budget effort. Assessing the cost implications of major pay and benefit changes requires careful budget examination. At the same time, issues such as regional pay differentials, cash management in the Federal Employee Health Benefit (FEHB) program, and our ability to recruit and retain better performing employees related directly to long-term government-wide management strategies.

Similarly, key issues in the General Services Administration have both budget and government-wide management aspects to them. Besides our traditional role of reviewing obligations of the Federal building, supply, and information technology funds, we also have a responsibility to assure that Federal space is effectively utilized, government employee travel programs are efficiently operated, and that real property disposals are carefully monitored.

Question 14. What responsibilities will you, as Deputy Director, have for the office of Privatization and the National Security program division? In carrying out these functions, what role, if any, do you anticipate the Executive Associate Director for Management will play?

Answer. (1) The Office of Privatization will report to the Associate Director for Management.

(2) The Associate Director for National Security and International Affairs will report to the Director.

The Executive Associate Director is currently playing a day to day role in the functioning of the National Security and International Affairs program division per the Director's instruction. When an Associate Director is named, I expect that burden will lessen.

My duties as Deputy Director include the responsibility of advising the Director on a regular basis on the affairs of the Office of Privatization and the National Security and International Affairs Division. Additionally, I will participate regularly in the Deputy's Committee of NSC.

Question 15. Many federal agencies, such as the IRS, SSA, and FAA, are upgrading and modernizing their outdated computer and telecommunications systems. This undertaking involves substantial capital investment and operating costs.

What responsibilities will you have, as Deputy Director, in the management and deployment of these systems? What roles do you envision the Executive Associate Director and the Administrator of OIRA playing in these and other information technology efforts?

Answer. Assuring that agencies make sound investments in modern information technology to improve their efficiency and responsiveness to the public has been and will continue to be a priority of the Office of Management and Budget. An active, constructive role by OMB can help to assure that agencies make prudent investments in modernizing these critical information systems and agencies succeed in modernization.

The Paperwork Reduction Act assigns substantial responsibilities for information technology oversight to OIRA. At the same time, information technology is a major component of the President's management improvement program. There must continue to be strong cooperation between OMB's management group and OIRA. These initiatives typically also involve large financial commitments and therefore also require that the budget side of OMB be heavily involved, so that the financial implications of these issues are understood and fit within the overall budget framework.

An important function for the Deputy Director is to ensure close coordination of information technology oversight by OIRA, OMB's management group, and budget. I intend to give this all the attention it needs upon being confirmed.

Question 16. Some public administration analysts have suggested there be periodic legislative authorization of appropriations to OMB, as well as to other agencies such as the General Services Administration and the Office of Personnel Management. Appropriations for the Department of Justice, for example, are subject to such periodic authorization. The purpose behind such proposals is to provide regular evaluations of these agencies' performance and determine the need for any statutory changes to their charters.

What are your views on this legislative approach, particularly as it would relate to OMB's activities?

Answer. In the confirmation process the Director was asked this question. His answer was a full response and one with which I am in entire agreement. I attach his response for your convenience.

"To date, this legislative approach has not been considered necessary in the case of OMB. Congress has ample opportunity to review OMB's performance when OMB seeks appropriations from Congress. OMB annually provides detailed information on the agency and its activities, and Congress has the opportunity to review these activities. There are, moreover, now four advice-and-consent positions within OMB (Director, Deputy Director, OFPP Administrator, and OIRA Administrator). Additionally, OMB frequently testifies on a wide variety of management and budgetary activities of the Executive Branch, and Congress has a full opportunity to question the OMB Director on these matters.

"Because OMB is a management agency, not a program agency, its activities are not subject to year-to-year changes in program activity levels. OMB is a small agency with activities that are well known. Indeed, the experience of many years indicates that Congress has no difficulty in obtaining information about or reviewing OMB's activities. The last OMB statutory changes of significance were in 1970 (and before that, in 1939). The infrequency in the change in the charter of OMB demonstrates that annual authorizations are unnecessary.

"Pursuant to Reorganization Plan No. 2 of 1970, the functions previously vested in the Driector of OMB were transferred to the President. These functions were then delegated by the President to the OMB Director (Executive Order No. 11541). Thus, OMB's primary functions are vested in the President and performed by OMB at the direction of the President. The OMB Director administers OMB 'under the direction' of the President. Therefore, it has not been thought either necessary or appropriate to have periodic reauthorizations of OMB functions, which are largely those of the President delegated or assigned by him to the OMB Director.

"In view of all of these considerations, I do not believe periodic authorizations are necessary."

IV. Financial Management

Question 1. It has been said that the government's financial management system is highly-fragmented, lacks internal controls, and is in urgent need of upgrading, restructuring, and standardization. Do you share this view, and, if so, how do you intend to address this issue?

Answer. There is still some truth to those assertions, although considerable progress has been made in recent years. In recognition of the size of the Federal financial management systems and the decentralized nature of much Federal activity, a broad program of financial systems reform was undertaken by the Reagan Administration. That program was carefully linked to the budget process, implementation of the Federal Manager's Financial Integrity Act, and the hundreds of existing financial management systems in agencies that carry out much of the work of the Federal Government.

We generally support the program that the previous Administration began. We support the financial information and standards program, the effort to consolidate and modernize financial systems, the programs to improve cash and credit management, and the effort to strengthen internal controls against fraud, waste and abuse. The fact that the President has already designated a Chief Financial Officer of the United States in OMB is a strong indication that this Administration continues to support the concept of strong financial management leadership directly under the President.

Question 2. During the 100th Congress, the Committee considered legislation to establish the concept of a high-level Chief Financial Officer (CFO) for the executive branch to implement and coordinate financial management policy. While this bill was pending, then-OMB Director Jim Miller assigned some of these duties to the OMB Associate Director for Management.

(a) What are your views on legislation which would create a Chief Financial Officer of the United States?

(b) It has been suggested that such a CFO should be located either within OMB or the Department of Treasury. What are the advantages and disadvantages of each of these options?

(c) How should any such CFO relate to the authority of the Comptroller General to prescribe accounting principles and standards?

Answer. (a) Legislation would provide a strong foundation for a Chief Financial Officer structure in Government. This should include a Chief Financial Officer of the United States and Chief Financial Officers in the major agencies. A sound management structure responsible and accountable for financial management functions is key to achieving and sustaining improved financial operations over the long-term.

(b) OMB assists the President in the budget process and in helping to set his management agenda. Thus, OMB has a key policy formulation role in such areas as credit, cash management, financial management, prompt pay, and internal controls. This policy role is exercised through the President's Budget, circulars, bulletins, and memoranda to cabinet agencies. In addition, OMB sets long range priorities in the financial management area and oversees agency compliance with policies and directives. The budget review process as well as the OMB management reviews are valuable in conducting this oversight role. A Chief Financial Officer outside of OMB would not have the opportunity to participate in such policy matters and, without the discipline of the budget process, would not have the ability to enforce compliance with policy.

Treasury has been and should continue to be a key partner of the CFO in leading the implementation of many financial reforms, i.e., the work they have done in improving cash management systems, overseeing implementation of credit management improvement and monitoring the financial systems upgrades. Despite their substantial contribution to date, Treasury cannot be expected to exercise OMB's policy formulation role and/or to enforce compliance with policy. Treasury has been and should continue to participate with OMB in the policy development role but I am opposed to having OMB give up policy responsibilities.

(c) Our intention is to strengthen the ongoing financial management reform program. We see the Chief Financial Officer in OMB as supporting the President in his efforts to improve management. The Comptroller General's authority is to prescribe broad accounting principles and standards for the Executive Branch, to be implemented by the President. However, we believe that it is necessary to protect the President's authority to direct the establishment of budget and accounting systems and data bases in programs and agencies. We would resist overly prescriptive accounting and reporting principles and standards from the Comptroller General that are aimed at the agencies and compete with the President's management prerogatives. At the same time, we are willing to seek an accommodation with the legislative Branch in designing budget and accounting information systems to support legislative oversight and meeting needs communicated through the Comptroller General.

Question 3. President Bush has indicated he intends to support President Reagan's FY 90 Budget request for some $83 million in funds appropriated for the President under the program entitled, "Investment in Management Improvement". What specific initiatives are being planned for the expenditure of these funds?

Answer. The funding is being requested to accelerate completion of a few key Reform '88 initiatives we believe are essential to the comprehensive overhaul of Government management practices that gained vigorous momentum in the Reagan Administration. By appropriating funds in this manner, OMB can control prudent allocation to agencies charged with completing the actions, and assure that objectives are achieved according to plan. The funding will:

Develop a standard grants management system; Construct prototype management information systems; Establish quality improvement programs to enhance service delivery to the American people; Demonstrate quality and productivity gains with improvements to Federal personnel loans; Design a standard delivery system for different types of government guaranteed loans; Test the advantages of credit card technology for entitlement benefits delivery; Improve management of debt litigation and collection of funds owed the Government; and provide new ways of prescreening applicants for Federal loans.

This modest investment in the most needed Governmentwide management improvement efforts will result in cost savings valued at many times the initial stake, and more importantly, lay the foundation for furnishing quality services to the American people. It is a small, but important, segment of President Bush's commitment to build a better America by managing America's government better.

Question 4. What steps will you take, as Deputy Director, to institutionalize a sound and effective credit management and debt collection program for government receivable accounts?

Answer. The Office of Management and Budget has established a Federal credit management policy and program to improve debt collection, reduce delinquencies, and improve the management of direct and guaranteed loans. OMB Circular A-70 (*Policies and Guidelines for Federal Credit Programs*) establishes standards for evaluating the budget impact of credit programs. OMB Circular A-129 (*Managing Federal Credit Programs*), revised and expanded in November 1988, defines policies and procedures for managing Federal credit programs. We plan to build upon this foundation.

In coordination with the budget review process, we will continue to hold annual credit reviews to evaluate the past performance of agency credit management and debt collection activities and to agree on performance goals for the upcoming fiscal year. Recently, the General Accounting Office acknowledged that our centrally directed effort to establish performance goals and Federal monitoring of agency efforts spurred improvements in debt collection.

For the future, credit initiatives include:

Subjecting guaranteed loan programs to the same due diligence standards as direct loan programs (with closer monitor of lender performance).

Tougher standards for real property appraisals (with States encouraged to establish real estate appraiser certification procedures and enforcement mechanisms in lieu of Federal involvement).

Effective prescreening of individuals or organizations seeking loans, grants or contracts (reducing the risk of defaulters and defrauders obtaining discretionary Government assistance).

More effective portfolio management (including steps to transfer loan servicing to the private sector through asset sales or contracting out servicing).

Finally, credit reform legislation proposed by OMB, if enacted, can revamp the way Federal credit is budgeted, managed, and reported. Under this proposal, agencies would be required to obtain appropriations from Congress for the subsidy costs of their credit programs. This would facilitate the efficient allocation of resources among all Federal agencies.

Question 5. OMB has proposed a new Circular which will set more detailed auditing requirements for those colleges and universities receiving Federal grants and contracts. OMB has also proposed changes to the cost principles for grants and contracts with State and local governments.

(a) What are your views of these circulars and when do you expect them to be issued in final form?

(b) Do you anticipate these and other circular revisions which would impose a regulatory and paperwork burden on the public to be subject to the requirements of Executive Order 12291 and the Paperwork Reduction Act?

Answer. (a) The new audit circular and the changes to Circular A–87 ("Cost Principles for State and Local Governments") contain needed improvements to (i) strengthen management controls over the billions of dollars going to Federal assistance recipients; and (ii) provide a uniform approach to determining costs, promoting efficiency and most of all providing equity between the Federal Government and State and local governments.

We expect both Circulars to be issued by mid-summer 1989.

(b) When the Circulars are prepared for final issuance, we will ensure both Circulars comply with Executive Order 12291 and the Paperwork Reduction Act.

V. ECONOMIC POLICY AND BUDGET PROCESS

Question 1. What is your view of the Balanced Budget and Emergency Deficit Control Act, as amended, commonly known as the Gramm-Rudman-Hollings law?

(a) Would you recommend any changes in this process?

Answer. (a) The Gramm-Rudman-Hollings (G-R-H) Law was an amendment to a bill under the jurisdiction of the Senate Finance Committee. At that time I was Chief of Staff of the Finance Committee and as such was greatly involved in the process that created G-R-H. It is possible that G-R-H could be improved by amendment, but it is also possible that the crude discipline it provides could also be dissipated in the amendment process. Therefore at the present time I would not recommend change to G-R-H. The best time to discuss change will be when the Congress and the Administration has fully and adequately addressed the 1990 and 1991 budgets.

(b) Do you favor any changes in the automatic sequestration procedures mandated by this law?

Answer. (b) I do not recommend making any changs in G-R-H to modify the procedures for sequestration. If the law is amended, I would favor easing the very rigid spendout provision. The spendout rates for discretionary defense and nondefense programs are tightly tied to the rate of the previous year; the change in medicare spending is also limited. These provisions required OMB to add $0.8 billion to the G-R-H deficit last summer during the 1989 sequester process.

Question 2. In November of 1987, the President and Congress arrived at a Bipartisan Budget Agreement which set overall spending priorities and deficit reduction amounts for FY 1988 and FY 1989. What are your views on the advantages and disadvantages of this type of negotiated approach?

Answer. The advantages of such a negotiated approach are:

(1) It fully commits those involved to honor the agreement and pursue its fullfilment.

(2) It focuses the energies and efforts of Congress' several committees on a single goal and agreement.

(3) The Presidents involvement fully commits the administration to the negotiations and any resulting agreement.

(4) This type of approach facilitates a two year approach more readily than past practices.

(5) It allows all participants, including the Senate and House, to be fully and openly apprised of each others views.

Disadvantages: (1) Some in Congress feel that such negotiation focuses the power of decision too narrowly in the elected leaders of the House and Senate and their designees.

Question 3. Due to the success of the 1987 Budget Agreement, there is increasing discussion of a two-year Federal budget process. Do you support two-year budgeting? Please explain.

Answer. Biennial budgeting is a good idea. It would minimize the time and energy now required by the budget process and reduce the confusion. Savings would also be possible if the agencies had greater certainty concerning the funds available to them.

Support for biennial budgeting appears to be rising in Congress although it is far from being generally accepted. Those who are reluctant to support biennial budgeting have genuine concerns that must be seriously considered. One concern is that a biennial budget could not be completed on a timely basis. To prevent this from happening, the Executive Branch and the Congress would have to resolve to start early and work diligently toward reaching a timely agreement on a two-year budget.

A second concern is that the longer budget period would force the Congress to take compensating actions for a larger number of contingencies while at the same time making it harder to do so. Here again, assurance is needed that the Executive Branch and the Congress will be committed to acting promptly to deal with contingencies, and that they will be prepared, when necessary, to take offsetting actions to finance them. Biennial budgeting would be undesirable if control over supplemental appropriation bills were not rigorously maintained. That could prove to be a serious problem.

A third concern is that Congressional oversight would be diminished by biennial budgeting. This need not be so. Indeed, biennial budgeting should reduce the number of repetitive votes on budget issues that now occur and provide more time for policy planning and oversight.

Question 4. The General Accounting Office has recommended the budget be restructured to include capital and operating subtotals for general, trust, and enterprise activities. What is your view of this concept?

Answer. The framework for the current unified budget was established by the President's Commission on Budget Concepts in 1967. Their recommendation was based on the idea that a single comprehensive reporting system covering all the activities of the Federal Government was the most useful way to present the Budget to decisionmakers and the public. This comprehensive budget included trust funds, public enterprise funds, direct lending, and capital expenditures as well as the operating expenses of the Federal Government, grants to State and local governments, and Federal transfer payments.

The principles of the Concepts Commission have held up well over the years since 1967, but questions do arise about the unified budget presentation, and a number of issues are under discussion today.

Currently the social security trust funds (the Federal old age and survivors and the Federal disability insurance trust funds) are excluded by law from the budget, except under the calculations required by the G–R–H legislation. Some would recommend that other trust funds be removed from the budget. Under current law the Federal Hospital Insurance Trust Fund (a large part of the Medicare program) is scheduled to join social security off-budget in 1993.

Some hold the view that the Federal Government should modify the unified budget and adopt a capital budget.

Some would remove the Postal Service, TVA, and other public enterprise funds from the budget.

A number of Government-Sponsored Enterprises act as financial intermediaries, primarily to direct capital to the housing, agriculture, and higher education sectors of the economy. The degree of Federal particpation in these activities varies, but all of them are excluded from the unified budget.

The Office of Management and Budget has been a consistent supporter of the Concepts Commission recommendations since the unified budget was first displayed in the 1969 Budget. Those recommendations also form the foundation for the Congressional budget process. The long history of the unified budget presentation and its continued successful use for both the Presidential and Congressional Budgets suggest that it is still relevant for today's budget decisionmaking.

However, we are planning to study some of the proposed changes currently under debate more thoroughly with a view toward advancing changes in budget presentation that have merit. In particular, we plan to develop ways of highlighting those elements of annual Federal expenditure that are in the nature of capital outlays. The intent is not to change the present measurement of the budget surplus or deficit but to permit better analysis of the breakdown of outlays between current consumption and those that add to the Nation's future standard of living.

Question 5. The 1974 Budget Act divided Presidential impoundment authority into two categories; rescissions and deferrals. This authority was contingent upon Congressional approval. However, the Supreme Court ruled the one-House Congressional veto unconstitutional, thus invalidating the deferral mechanism.

Do you support some form of enhanced rescission authority? If so, how would you structure it?

Answer. I support enhanced rescission authority for the President. The structure would depend on whether or not the enhanced rescission authority would be a substitute for item-veto authority. Specifically, if the rescission authority would apply only to new bills, then it would be similar to item-veto authority. Therefore, I would restructure it so that the item-veto rescission authority would stand unless overridden by Congress. However, if rescission proposals could be made whenever the President determines that the funds are no longer justified, then I would restructure it to require an up-or-down vote by Congress.

Question 6. What should be the main objectives of United States fiscal policy? As Deputy OMB Director, what steps will you take to attain these objectives?

Answer. It is desirable that the budget be balanced as required by Gramm-Rudman-Hollings. But no one seriously proposes that the budget be balanced under all conceivable economic or political circumstances. G-R-H makes specific exceptions for the possibilities of recession or war, and this merely codifies what has been standard budget practice for many decades.

Fiscal policy also needs to be concerned with the pattern of Federal outlays and receipts, not just thier overall totals. Deciding how much should be spent on each major program is important, as are decisions about which taxes are levied, at what rates, with what exceptions.

The more fundamental objective of fiscal policy (and economic policy generally) is assuring sustained U.S. economic growth and a pattern of investment that can assure continued U.S. leadership.

Question 7. In your opinion, what effect has the Federal budget deficit had on the U.S. economy since 1981?

Answer. Common sense tells me that excessive deficit spending is bad. The threshold question is what constitutes excessive. There is no precise answer to this question because no one fully understands the effects of deficits on inflation, recession, rising interest rates, exchange rates and trade deficits. Despite the lack of an exact answer as to what constitutes excessive deficit spending the President, the Congress and the American people came to a common belief a few years back that we had crossed the threshold of excessive deficit spending. That common belief resulted in enactment of G-R-H.

Personally I believe we can sterilize the bad economic seeds that may have been sown by excessive deficit spending by promptly enacting the Bush Budget or a negotiated one similar to it.

Question 8. In your judgment, what actions can be taken by OMB to enhance our productivity, increase the saving rate, and foster investment?

Answer. The Bush Administration is committed to achieving a higher rate of productivity growth through increased saving and investment. Productivity depends on such varied factors as the quality of labor, management's skill, the level of technology, and the freedom to innovate. The government has only limited influence over many of these factors, but it can make a difference in some key areas:

Eliminating the Federal deficit by curbing government spending would release resources for more productive uses in the private sector. It would lower interest rates, thereby, reducing the cost of capital. That would encourage investment to enhance productivity.

The government could encourage more investment in human capital. The Bush Administration intends to work closely with Congress to pursue excellence in education, science, and technology. We will continue to emphasize basic research because that has the potential to contribute greatly to America's long-term competitiveness.

The government needs to create an environment in which private decision making is directed toward innovation and higher productivity. Such an environment did not exist during the years of low productivity growth in the 1970s. Unpredictable inflation, rising effective tax rates, and costly government regulation hurt investment and diverted management attention away from the job of improving productivity. These impediments to growth have been greatly reduced in the 1980s, and there has been a pickup in productivity growth. Economic policy needs to remain directed at controlling inflation while avoiding excessive taxation and government regulation if we are to see further improvements in productivity in the decade ahead.

Question 9. Some analysts have commented that our current budgetary process does not incorporate methods for addressing long-term problems such as the greenhouse effect or the cleanup and revitaliztion of our nuclear weapons production facilities. Do you share this assessment? If so, what actions might you take as OMB Deputy Director to give long-term planning more emphasis in the budget process?

Answer. I think there is a need for more long-term planning in the budget process. Director Darman is of the same view, as he has testified. We are jointly considering the best means of accomplishing this, including anticipating problems such as the greenhouse effect.

Question 10. OMB is developing a consolidated budget and financial information system. How would you envision this system correlating budget and financial management information once it becomes operational?

Answer. First, we believe that correlating budget and financial information is a key to better management of the Government. We need better program information, not just on budgetary allowances and budget results, but resource balances, program efforts, and accomplishments. This information will allow agencies to manage programs bettter, and will allow the Executive Office and the Congress better to evaluate the efficacy of programs.

Second, to obtain better progammatic information, we would carefully structure the Federal and agency budget and accounting data. The previous Administration put in place the *Standard General Ledger* and *Core Financial Systems Standards:* we will build on that work.

Our efforts are expected to result in a data structure that provides common data and a mechanical intergration between budgetary and financial data. However, more improvements are needed. Our goal is to produce performance data to assess progress in programs and to ensure compliance with Presidential and legislative intent. Financial information will be oriented toward reporting on the execution of budgetary decisions and facilitating future decisions. In short, we will work toward the goal of making all financial data available to program managers and oversight bodies in forms they can use.

VI. THE PAPERWORK REDUCTION ACT, REGULATORY REFORM, INFORMATION POLICY, AND THE OFFICE OF INFORMATION AND REGULATORY AFFAIRS

Question 1. What do you believe are the fundamental purposes of: (a) The Paperwork Reduction Act; (b) Executive Order 12291; and, (c) Executive Order 12498? How would you describe your responsibilities, as Deputy Director, under each of these measures?

Answer. (a). The Paperwork Reduction Act of 1980, as amended, is an attempt to control and manage the government's collection and use of information. Building on the Federal Reports Act of 1942, the Federal Records Act, the Brooks Act, the Privacy Act, and related laws, it requires that OMB examine and improve the management of Federal information activites toward four ends:

To minimize the burden of Federal paperwork on the public (including individuals, businesses, and State and local government); to minimize the cost and maximize the usefulness of information collected, maintained, and disseminated by the Federal government; to coordinate and integrate Federal information policies, including ensuring the privacy and confidentiality of Federal information; and to oversee the acquisition and use of information technology (computers and telecommunications) to assure that this important technology is used efficiently and in a manner that improves the operation of government.

The unifying theme of the Act is that information is a scarce resource. Federal requirements affecting the production or use of information have both benefits and costs. In reviewing collections of information submitted by agencies for OMB approval or disapproval under the Paperwork Reduction Act, OMB assures that the benefits of collecting data outweigh the costs of obtaining and using it. In reviewing major information systems and proposed information technology investments as part of the fiscal budget process, OMB is charged with assuring that the Federal government exploits the potential of modern technology to improve governmental efficiency and responsiveness while not unduly intruding into the personal lives of Americans.

(b) and (c). Executive Orders No. 12291 and 12498 institutionalize a process of Presidential regulatory review. This process is intended to ensure better analysis of regulatory impacts, greater interagency coordination, more public notice of planned

Federal regulation, and increased executive involvement in the regulatory process. Under Executive Order No. 12291, regulatory agencies have to justify their need to regulate, and demonstrate the likely benefits and costs of a regulation to the President's Executive Office before the agency issues a regulation.

Under Executive Order No. 12498, the Office of Management and Budget issues the annual Regulatory Program of the United States Government. Development of this document is intended to improve agency regulatory management by providing the President and his appointees a direct opportunity to review major regulatory activities planned for the coming year, to focus regulatory priorities, and to coordinate with each other.

The Paperwork Reduction Act and these two Executive Orders create mutually supportive, interactive Presidential oversight mechanisms that focus on the paperwork and regulatory impacts of Federal programs. Other oversight mechanisms in OMB focus on different aspects of Federal programs, including their direct cost to the Treasury, the Federal manpower required, and their fiscal management, including contract, grant, and procurement procedures.

My responsibilities, if confirmed to be Deputy Director, would be to support the Director in carrying out Executive oversight for the President, and to assist the Administrator of the Office of Information and Regulatory Affairs in implementing the Presidential oversight mechanisms assigned to him in as effective and appropriate ways as feasible.

Question 2. What do you see as the relationship between the Director's responsibilities for information policies and the clearance of information requests set out in the Paperwork Reduction Act and the regulatory review responsibilities prescribed by Executive Orders No. 12291 and 12498? How would you describe your responsibility, as Deputy Director, to carry out the Director's obligations under these measures?

Answer. OMB's responsibilities for information policies under the Paperwork Reduction Act and its responsibilities for regulatory review under Executive Orders No. 12291 adn 12498 are complementary and mutually supportive. Under the Paperwork Reduction Act, Congress provided broad oversight authority for OMB to review and reduce the burden of unnecessary Federally-imposed reporting and recordkeeping. In carrying this out, OMB does not separate its review of paperwork activities from its reviews of agency regulations. At least 75 percent of the total Federal paperwork burden is imposed for regulatory or compliance purposes. OMB cannot review Federal paperwork without reviewing agency regulations.

Moreover, OMB examines more than the underlying regulation in which the paperwork requirement is embedded. OMB also examines the extent to which related statutory, budgetary, and broad policy mandates may be driving such paperwork requirements. In short, proper review of paperwork burdens, as required by the Paperwork Reduction Act, must of necessity include a careful understanding of the underlying source of the paperwork requirement.

Similarly, the requirements for executive oversight of regulatory planning and review set forth in Executive Orders No. 12291 and 12498 have created a process for OMB to oversee regulations dealings with information resources management. These regulations include GSA's Federal Information Resources Management Regulations (FIRMRs) and the Department of Commerce's Federal Information Processing Standards (FIPS). To the extent that agencies operate major systems through grant and contracts with States, localities, and other entities, agency program regulations are increasingly an instrument of information policy. Such review of regulations permits OMB to identify and resolve important information policy issues; such as prescribing information technology requirements in program regulations, and assuring compliance with the Computer Security Act of 1987 and the Privacy Act of 1974 especially as amended in 1988 to deal with computer matching.

In summary, the functions of information and regulatory review overlap and complement each other. The Office of Information and Regulatory Affairs (OIRA) in OMB is responsible for clearance of agency information collection requests, and for implementing Executive Orders No. 12291 and 12498. Agency requests for OMB review of paperwork as well as regulatory matters are conveyed on the same form, the SF-83. Agencies submit their draft regulatory programs for review and coordination by OIRA. Assigning staff to designated agencies also provides a consistent, clear line of responsibility for oversight and appropriate coordination of agency information and regulatory activities.

As I indicated above, my responsibilities, if confirmed to be Deputy Director, would be to support the Director in carrying out Executive oversight for the President, and to assist the Administrator of the Office of Information and Regulatory

Affairs, in implementing the Presidential oversight mechanisms assigned to him in as effective and appropriate ways as feasible.

Question 3. It has been suggested that OMB's leadership role in information policy mandated by the Paperwork Reduction Act has been adversely affected by the resource demands of Executive Order No. 12291. Do you agree?

Answer. No.

To the contrary, the two oversight mechanisms overlap, and are mutually reinforcing. The substance of the review is basically the same. Under the Paperwork Reduction Act, OMB is obligated to balance the needs of the agency for the information against the burdens of the collection on respondents. Under Executive Order No. 12291, agencies are to demonstrate to OMB that the direct and indirect benefits of a draft rule exceed its costs, both economic and social.

For OIRA staff to analyze the policy implications of a particular rule, or the information collection contained in that same rule, requires basically the same steps. To the extent that Paperwork Reduction Act oversight relates to information resources management, OMB will also be overseeing the budget expenditures or regulatory implementation involved.

Question 4. Some commentators have proposed that OMB's regulatory review functions prescribed in Executive Orders No. 12291 and 12498 should be separate from OMB's information clearance responsibilities contained in the Paperwork Reduction Act. What is your view?

Answer. For the reasons I stated above, I would oppose such separation. There is too much substantive overlap between information and regulatory review to have separate individuals performing separate reviews. Such a bifurcated system would be inefficient, result in duplicative review, waste staff effort and add to review time through the need to coordinate, and dilute the existing clear lines of administrative authority.

Question 5. How do you envision the Office of Information and Regulatory Affairs functioning with the newly-created Presidential Council on Competitiveness?

Answer. On February 9, 1989, President Bush announced that he would establish a Council on Competitiveness, chaired by Vice President Quayle. At that time, the President stated that the Council would "review regulatory issues, and such other issues as may be referred by the President, bearing on competitiveness. In reviewing regulatory matters, the Council will be continuing the work of the former President's Task Force on Regulatory Relief." We anticipate that we will work closely with the Council and that OIRA will have a major role in the Council's work, particularly when regulations are involved.

Question 6. The President's Task Force on Regulatory Relief and OMB have supported efforts to reduce administrative costs and increase productivity for federally-funded university research under the Federal (nee Florida) Demonstration Project. Last year, this project was expanded to incorporate research contracts in addition to grants and further made applicable to institutions outside the State of Florida. What is your opinion of this effort, and how can we best use the data and experience generated from this project.

Answer. The Federal Demonstration Project has shown considerable success to date. In its original form, as the Florida Demonstration Project, it helped share the benefits of the effect of streamlining and eliminating much of the Federal-imposed paperwork required of those involved with government sponsored university research. By expanding the project to add 26 universities to the original eight in Florida, and by including contracts as well as grants, our capacity to test innovative changes has been greatly enhanced.

I strongly support the goal of this Project—that effective means be developed to enable researchers to spend more time on their research and devote less time on Federal regulatory requirements and unnecessary paperwork. The data and experience generated from the Federal Demonstration Project can be used to identify reforms in this area that can be adopted permanently on a nationwide basis. By doing so we can receive maximum leverage from our Federal research dollars and thereby strengthen our national security and economic health.

Question 7. As you know, this Committee must consider the reauthorization of appropriations for the Office of Information and Regulatory Affairs (OIRA) established pursuant to the Paperwork Reduction Act.

(a) Do you support the reauthorization of OIRA?

(b) Do you plan to recommend any changes for amendments to the Paperwork Reduction Act?

Answer. (a) Yes. We have submitted a request to the Congress for reauthorization of appropriations for OIRA to carry out the Paperwork Reduction Act with my support.

(b) No.

Question 8. It has been reported that OIRA is currently considering the revision of OMB Circular A-130 (Management of Federal Information Resources).

(a) What is the status of this effort, and how does OMB intend to incorporate public participation in this review?

(b) Can you explain the relationship of this Circular to the Paperwork Reduction Act?

Answer. (a) OMB issued a proposed draft policy on electronic information dissemination on December 28, 1988, and published the proposal in the *Federal Register* on January 4, 1989. The public comment period was due to expire on March 6, but has been extended until April 10. The issue of access to, and dissemination of, government information is an important and sensitive one. I have been assured that OMB is proceeding in a manner that permits substantial opportunity for public participation before final policy is issued. Because of the extent of the public comments thus far received, OMB is considering issuing a second draft for public comment.

(b) The original Paperwork Reduction Act stipulated "general information policy" functions for OMB, which were to include developing and implementing uniform and consistent information resources management policies and overseeing the development of information management principles, standards, and guidelines and promoting their use (44 U.S.C. 3504 (b)(1). A 1986 amendment to the Paperwork Reduction Act requires that OMB "maintain a comprehensive set of information resources management policies" (44 U.S.C. 3505 (5)). The legislative history explains that this provision refers to OMB Circular No. A-130 and requires OMB to maintain this Circular.

Question 9. The "public protection" section of the Paperwork Reduction Act is designed to ensure that before any government demand upon the public to provide or maintain information is made, the request has been reviewed for need and efficacy. If an information collection request does not display a validly assigned control number, then it is considered a "bootleg" and is in violation of the Act's provisions.

(a) How do you view the OMB Director's responsibility when a member of the public or a federal official brings a "bootleg request" to the Director's attention?

(b) What actions do you believe the Deputy Director of OMB should take if the Deputy becomes aware of a "bootleg" request?

Answer. (a) "Bootlegs" are taken very seriously at OMB. The Director's office would not generally become directly involved in investigations of "bootlegs;" that is the responsibility of the Administrator of OIRA. If a "bootleg" does come to the director's attention, I can assure you that it will be handled expeditiously.

(b) As soon as OIRA is made aware of potential "bootlegs," OIRA contacts the affected agency immediately. Once it is established that a "bootleg" exists, OIRA asks the agency to request approval under the Paperwork Reduction Act, and to notify the public of the error.

VII. GOVERNMENT OVERSIGHT AND REORGANIZATION

Question 1. Early in his first term, President Reagan established by Executive Order, the President's Council on Integrity and Efficiency (PCIE), composed of all statutory Inspectors General and other law enforcement officers in the Executive Branch. Under President Reagan, the Deputy Director of OMB chaired the PCIE, with day-to-day management provided by a Vice Chairman chosen from its members.

Do you expect the PCIE to continue, and will you, as Deputy Director, be its chair? If so, what areas would you like the PCIE to emphasize in the next four years?

Answer. The PCIE will continue to play a major role in the Administration's efforts to reduce fraud, abuse and mismanagement. When the President met with the Inspectors General on January 27th he emphasized the key role the Inspectors General will continue to play in improving the quality of goverment operations and ensuring the integrity of programs. He also commended them for their emphasis on ensuring that the highest ethical standards are maintained.

The President's Council initially will be asked to focus attention in the following areas:

Identifying and assisting in correcting government-wide weaknesses and vulnerability to fraud, abuse and waste through the development of coordinated planning for the use of audit and investigative resources, e.g., long-term audit plans.

Developing and implementing policies encouraging Inspectors General to develop well-trained and highly skilled staffs.

Encouraging members of the Council to actively participate in the Council projects and to help implement selected PCIE projects.

Either the Director or myself will chair the PCIE. We intended to heavily involve the Executive Associate Director in our activities on the PCIE.

Question 2. Inspectors General, according to the 1978 authorizing statute, are to be selected without regard to political considerations and solely on the basis of demonstrated ability. Recent practice has been for an ad-hoc committee of the PCIE to review each Inspector General candidate's qualifications. Would you anticipate continuing this practice?

Answer. Yes.

Question 3. The PCIE currently has procedures governing allegations of wrongdoing against agency heads and Inspectors General. These procedures provide that Inspectors General will investigate allegations against agency heads and refer them to the Department of Justice or the Office of Government Ethics, as appropriate. Do you favor continuing this approach?

Answer. We plan to continue this procedure which was carefully worked out by the PCIE, OMB, the Department of Justice, and the Office of Government Ethics, and endorsed by President Reagan.

Question 4. As previously stated, Inspectors General are to be chosen for their positions on the basis on integrity and demonstrated ability in a variety of career fields including investigations. Career law enforcement personnel of the federal government are covered by a special retirement program provided that they serve in a position covered by this retirement program for a period of 20 years. Many such people are understandably reluctant to forfeit this retirement coverage in order to accept Inspectors General positions, a fact which may limit the President's ability to consider the full range of qualified persons for these jobs.

Would you support a selection system which ensures that federal career law enforcement personnel will retain their law enforcement retirement should they be nominated and confirmed by the Senate for an Inspector General position?

Answer. Yes. Under current law, there is a process by which I.G. positions may be designated as law enforcement provisions, allowing the occupant of the position to qualify for special law enforcement retirement benefits (See 5 CFR Section 831.901 et. seq.); however, such designation is not required.

Question 5. In your opinion, is there is any need to revise the E.O. 12625 which provides the structure for OMB coordination and support of IG activities?

Answer. Generally, we feel that E.O. 12625 provides the necessary guidance and structure effectively to emphasize and coordinate IG activities.

Question 6. What steps will OMB be taking to oversee each agency's annual report to the President under the Federal Managers Financial Integrity Act (FMFIA)?

Answer. OMB has proscribed policies for agency implementation of FMFIA. These are contained in Circular A-123 ("Internal Control Systems"), Circular A-112 ("Financial Management Systems"), and annual calls to agencies for FMFIA reports. OMB analyzes and evaluates agency reports, follows up in meetings with the agencies throughout the year, and summarizes highlights in the President's *Management Report.* Problems reflected in these reports include environmental and safety concerns with Federal facilities, ADP security, and procurement problems.

While we will continue to implement the two circulars and continue the annual calls, we are considering ways to monitor program operations more aggressively and implement key management objectives (e.g., past experiences with savings and loan banks, nuclear plants, embassy security, and prison overcrowding). We will seek to identify and track early indicators of problems and see that appropriate officials learn of them as quickly as possible.

Question 7. Some analysts contend that outside of the normal budget review process, OMB does little in the way of examining potential improvements in the (re)organization of the executive branch. Do you agree with this statement, and, if so, what steps can you take to address it?

Answer. Although OMB does not have a specific division to handle reorganization issues, it has the staff capability for organization planning. An important responsibility of OMB is to review ideas for improved organization of the executive branch. This is done routinely as part of the budget process.

While individual agencies undertake internal organization changes, OMB is in the best position to coordinate organizations changes involving several agencies. This interagency coordination role assists in resolving disputes and objectively assessing cross-cutting issues.

Question 8. Included in the recently enacted Department of Veterans Affairs Act is a provision recommending the creation of a Bi-Partisan Commission to study any recommended improvements in the organization and management of government. President Bush must soon make a decision regarding the establishment of this Commission. What are your views regarding such a Commission, and what in OMB's position relative to its establishment?

Answer. President Bush's decision on the National Commission on Executive Organization called for in the Veterans Department legislation is due to Congress between March 15 and April 15, 1989. The Administration is currently considering whether to proceed with such a Commission. We will present our views to the Congress by April 15.

VIII. PROCUREMENT POLICY

Question 1. Last year, this Committee played a major part in the reauthorization and strengthening of the Office of Federal Procurement Policy (OFPP). In your judgment, how can OFPP's functions best be utilized?

Answer. First, I commend this Committee for its work in reauthorizing OFPP last year. As Director Darman noted before this Committee in January, the Office is vital to the process of improving procurement management at all levels within the Executive Branch.

The Office and its functions can best be utilized, in my view, in a number of separate but related areas:

The Office should serve as an active participant in the procurement regulatory process to assure that (1) there is adequate opportunity for public review and comment; (2) the regulations meet a legitimate need, have appropriate utility, are clearly expressed, and represent the minimum necessary burden on both the public and private sectors, and (3) the process by which regulations are developed is timely and responsive to the needs of the Cognress and the President;

The Office should oversee the entire Federal procurement process, and continually identify the need for, and develop, legislative and policy proposals to address fundamental inefficiencies and inadequacies in the process, including problems of fraud, waste and abuse; and

As a leader in the procurement reform effort, the Office must serve as a catalyst in getting things done. Its resources must be employed in seeking systemic solutions to the fundamental problems of Federal procurement, including not just regulatory and statutory reform, but basic improvements in, for example, the competence and capabilities of the Federal procurement workforce.

Due in large part to the work of this Committee—and its counterpart in the House—we believe that the Office has all the necessary authorities to perform—and perform well—in these critical arenas.

Question 2. What actions will you take, as Deputy Director, to streamline, simplify, and otherwise improve Federal Procurement policy and procedures? Do you expect to consult with the Executive Associate Director for Management in carrying out these functions?

Answer. The focus of my actions, in this regard, will be twofold. First, I will work with the Executive Associate Director of OMB and the Administrator of OFPP to assure that the procurement reform agenda, as reflected in the OFPP Reauthorization Act of 1988, is carried through as expeditiously as possible by OFPP. In particular, I believe that the new Federal Acquisition Regulatory Council that includes Defense, GSA, NASA, and OFPP will greatly help to streamline the acquisition process. And second, I will work with the Executive Associate Director of OMB and the Administrtor of OFPP to assure that new procurement reform initiatives—as identified by the President and the Congress—are added to that agenda, and promptly addressed.

I will particularly work with the Executive Associate Director of OMB and the Administrator of OFPP to assure that the Office has the necessary leadership and resources to function as the President and Congress expect, that the Office is thoroughly integrated into the Office of Management and Budget, and that internal procedures are in place to assure routine access to the Director, and me on important matters. In summary, I believe that OFPP will be most successful in its efforts to improve the Federal procurement process only when the entire institution of OMB is—and is perceived by the Executive agencies to be—firmly supportive and committed to those efforts.

Question 3. OMB Director Darman, during his confirmation proceedings, indicated that one of his most important tasks was to find a highly-qualified individual to recommend for appointment as Administrator of the Office of Federal Procurement Policy (OFPP).

What role will you play, as Deputy Director, in the selection of an Administrator for OFPP?

Answer. I will provide advice and counsel to the Director for his selection of an Administrator for OFPP. I expect I will meet with candidates for this office in the process.

Question 4. Under the procurement integrity provision of the 1988 Amendments to the OFPP Act, which become effective May 16, 1989, competing contractors and government officials will be required to certify that they either have no knowledge of or have appropriately disclosed known violations of the Act prior to the award of any procurement contract over $100,000.

(a) What progress has been made towards promulgating regulations to implement this requirement?

(b) What provisions have been made, or will be made, to solicit public comments in the development of these regulations as required by the OFPP Act and the Paperwork Reduction Act?

Answer. OFPP has been working on draft guidance to assist the Department of Defense, the General Services Administration and the National Aeronautics and Space Administration in their joint responsibility to issue implementing regulations. On March 3, 1989, OFPP provided preliminary guidance to these agencies, in draft form, and received a copy of their draft regulations for review.

Since then, OFPP staff has met with the agencies several times to discuss concerns and to resolve differences between the draft regulations and the OFPP guidance. The agencies issued a proposed rule in the FEDERAL REGISTER on March 27, 1989. The proposed rule allows 30 days for the submission of public comments. We will work to assure that the public comments are carefully considered in the development of the final rule. Comments on the paperwork burden associated concurrently with the request for comments.

Question 5. What progress has been made in constituting both the Federal Acquisition Regulatory Council and the Cost Accounting Standards Board? Have either of these entities held official meetings to date?

Answer. Neither entity has held any official meetings to date. However, progress is being made in setting up both mechanisms.

The Federal Acquisition Regulatory Council.—This council consists of the Administrator for Federal Procurement Policy, the Secretary of Defense, the Administrator of National Aeronautics & Space and the Administrator of General Services. A draft charter establishing operating procedures and responsibilities for the Council has been developed by OFPP. The charter is now being reviewed by the other member agencies. Our goal is to complete the charter, issue it and convene the first meeting of the Council by May 15, 1989.

The Cost Accounting Standards Board.—OFPP is also working to establish this Board. We have formally asked both the Department of Defense and the General Services Administration to name nominees to the Board and both have now done so. We have also invited industry groups to recommend candidates for the two private-sector positions. We hope to have the private-sector members of the Board named shortly.

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, May 11, 1989.

Hon. JOHN GLENN,
Chairman, Committee on Government Affairs,
U.S. Senate, Washington, DC.

DEAR CHAIRMAN GLENN: Thank you, your Committee, and staff for the courtesies extended to me in my recent confirmation hearing. Your warmness to my family was particularly appreciated by me. My wife, Sandy, had told our boys about your journey in space and they were beside themselves. When I told them at lunch that day that you were also a combat pilot, they couldn't wait to get back to school to brag to their friends.

At the close of the hearing three items, to my knowledge, were left for my resolution.

(1) Senator Levin's request that I meet with Comptroller General Bowsher to discuss program evaluation.

At 4:30 p.m. today, Director Darman and I will meet with Comptroller Bowsher on this matter.

(2) Senator Levin requested that I answer a question concerning OMB's testimony policy.

My written reply to Senator Levin is attached.

(3) Senator Levin requested I "clarify" my recusal statement.

I have worked to clarify my recusal statement with Senator Levin's staff. I have attached a clarification which I would ask become my official statement on this matter. I believe Senator Levin's staff will concur with this clarification.

Once again, thank you for the oportunity to appear before your Committee. I hope I've not left any questions unanswered or requests unfulfilled.

Cordially,

William M. Diefenderfer III.

Attachments.

Executive Office of the President,
Office of Management and Budget,
Washington, DC, May 11, 1989.

Hon. Carl Levin,
Committee on Governmental Affairs,
U.S. Senate, Washington, DC.

Dear Senator Levin: At my confirmation hearing on May 8th you asked if "OMB would submit testimony in the name of witness that refused to testify?" OMB would not submit such testimony.

Cordially,

William M. Diefenderfer III.

Attachments.

I.

Question 3. Are there any issues involving OMB from which you may have to disqualify yourself? If so, please explain.

Answer. I believe there are no policy, budget, or regulatory issues involving OMB with respect to which I will be legally required to disqualify myself, if I am confirmed. I sold all assets that the Office of Government Ethics thought would create a conflict or an appearance of a conflict. With regard to assets I now hold, I am not aware of any reason that might require disqualification. In response to the Committee's request for biographical and financial information I noted prior relationships with certain firms or groups. To the best of my knowledge, I have no continuing financial interest in any of these firms or groups.

However, to avoid even the appearance of conflict, I have recused myself from:

(1) Any particular matter directly and specifically involving any of the 14 firms or groups enumerated below.

1. Ad Hoc Insurance Group of Bermuda
2. Alaska Air
3. AIG
4. Association of American Railroads
5. Genentech
6. Johnson-Simmons
7. LTV
8. Marriott Corporation
9. Metropolitan Insurance Company
10. MGIC/Mortgage Guarantee Insurance Company
11. National Cable Television Association
12. Pennsylvania Higher Education Assistance Agency
13. Union Labor Life
14. United States Telephone Association

Although in excess of 99% of my remuneration from these 14 firms or groups was for tax matters, to the best of my recollection I infrequently handled other legislative or Federal matters for them. Therefore, for these firms or groups, my recusal will not be limited to tax matters, but will also cover any particular matters.

This recusal will be for one year and does not apply to issues of broad or general policy affecting a larger class of parties of which these companies may be one.

(2) Any particular matter directly and specifically involving United Savings Association of Texas acquisition of failed or failing savings and loan institutions (this recusal does not apply to matters of general policy affecting the Savings and Loan industry).

(3) Any particular matter directly and specifically involving the Federation of Proposal Policy Officers as it pertains to labor-management issues (this recusal does not apply to general policy matters involving labor relations). This recusal will be for one year.

(4) Participation in any governmental action directly and specifically addressing the acquisition by Henley Group of a Federally regulated firm.

(5) Participation in any particular matter directly and specifically involving Phillip Morris' compliance with Federal Pension Law (this recusal does not apply to issues of broad or general policy affecting a larger class of parties of which Phillip Morris might be merely one). This recusal will be for one year.

[From the New York Times, May 8, 1989]

SCIENTIST SAYS BUDGET OFFICE ALTERED HIS TESTIMONY

(By Philip Shabecoff)

WASHINGTON, May 7—The White House's Office of Management and Budget has changed the text of testimony scheduled to be delivered to Congress by a top Government scientist, over his protests, making his conclusions about the effects of global warming seem less serious and certain than he intended.

The testimony had been prepared by Dr. James E. Hansen, director of the National Aeronautics and Space Administration's Goddard Institute for Space Studies, for delivery Monday before the Senate Subcommittee on Science, Technology, and Space, Congressional sources said. Dr. Hansen confirmed that the testimony had been changed.

In his original testimony, he said that computer projections of changes in climate caused by carbon dioxide and other gases released into the atmosphere would cause substantial increases in temperature, drought, severe storms and other stresses that will affect the earth's biological systems.

The text of his testimony was edited by the budget office to soften the conclusions and make the prospects of change in climate appear more uncertain, Dr. Hansen said in an interview.

The budget office and other officials in the White House have been urging a go-slow approach to policies dealing with global warming, called the greenhouse effect by scientists. Those officials have, opposed the State Department and Environmental Protection Agency, which have been urging President Bush to take the lead in mobilizing the international community to meet the threat of rapid climate change. The Administration is deeply split over whether to endorse an international treaty that would require action to deal with global warming, high-ranking executive branch officials said.

Senator Albert Gore, Democrat of Tennessee and chairman of the subcommittee, who had been told by Dr. Hansen of the alterations in the testimony, said that White House officials were attempting to change science to make it conform to their policy rather than base policy on accurate scientific data.

"They are scared of the truth," Mr. Gore said. He charged that the testimony was censored to support those in the Office of Management and Budget and other parts of the Administration who are seeking to keep the United States from proposing an international treaty to ameliorate the now widely anticipated global warming trend.

Mr. Gore said that at a future hearing "I intend to ask O.M.B. officials who have substituted their scientific judgments for those of atmospheric scientists to come in and testify about the basis for their conclusions. I want to determine their qualifications, the climate models they have used, the amount of study they have given to the subject and the evidence that they found most persuasive. And I intend to pursue this at great length."

BUDGET OFFICE REVIEW IS ROUTINE

A spokeswoman for the budget office reached Saturday said that she made repeated attempts to seek an explanation but that no one from the office was available to respond to questions about the changed testimony. She also said that the only press official who will agree to have her name used in connection with budget office statements is Barbara Clay, who was among those not available.

The Office of Management and Budget routinely reviews testimony to be presented to Congressional committees by officials to make sure that Federal policy conforms to the President's budget.

The United States heads an international panel assigned the task of preparing a policy response to the global warming trend. The panel is scheduled to make recommendations at a meeting sponsored by the United Nations in Geneva this week.

Secretary of State James A. Baker 3d and Environmental Protection Agency Administrator William K. Reillyare said to be urging that the United States take the lead on a convention to meet the threat of global warming. But officials in the White House, including the Office of Management and Budget, as well as in the Department of Energy, are urging a wait-and-see approach, saying the scientific information and data on economic effects of a remedial action are inadequate.

Dr. Hansen's testimony, before it was changed, would have given strong support to the position that, while there are still many uncertainties, enough is known now about the general and even regional effects of the global warming trend to start acting now to mitigate and prepare for those effects. Dr. Hansen concluded, for example, "We believe it is very unlikely that this overall conclusion—drought intensification at most middle- and low-latitude land areas, if greenhouse gases increase rapidly—will be modified by improved models."

At the end of the section of his testimony dealing with regional effects of global warming, however, the Office of Management and Budget, over Dr. Hansen's objections, added this paragraph: "Again, I must stress that the rate and magnitude of drought, storm, and temperature change are very sensitive to the many physical processes mentioned above, some of which are poorly represented in the G.C.M.'s (general climate models). Thus, these changes should be viewed as estimates from evolving computer models and not as reliable predictions."

SCIENTIST CRITICIZES CHANGE

Dr. Hansen said in an interview that the additional paragraph served to "negate" the entire point of that part of his testimony, which was that scientific understanding has now reached the stage where "we can begin to draw significant conclusions about droughts, storm, temperature—conclusions which are unlikely to change as the models and observational data become more detailed."

Another part of Dr. Hansen's testimony said that many policies for reducing carbon dioxide growth rates would make good economic sense was changed by the budget office to say that such policies "should" make good economic policy sense.

Still another change required the testimony to say that the relative contribution of human and natural processes to changing climate patterns "remains scientifically unknown." In fact, Dr. Hansen said, he and his colleagues at N.A.S.A. who helped prepare the testimony, "are confident that greenhouse gases are primarily" of human origin.

"It distresses me that they put words in my mouth; they even put it in the first person," Dr. Hansen said and added that he had tried to "negotiate" with the budget office over the wording but "they refused to change."

"I should be allowed to say what is my scientific position, there is no rationale by which O.M.B. should be censoring scientific opinion," Dr. Hansen insisted. "I can understand changing policy, but not science."

He also said that this was not the first time the budget office had changed his testimony to Congress.

While there is strong consensus within the scientific community that the greenhouse effect is real, there have been a substantial number of challenges to Dr. Hansen's contention that long-term global temperature trends show a high probability that it is already taking place. Dr. Hansen's testimony that the global warming trend is already occurring was presented at a Congressional hearing last July and attracted widespread attention.

While the O.M.B., in its function of coordinating policies within the Executive Branch, reviews and edits such testimony, the research findings of Government scientists are subject to peer review, not to change by the policy-oriented budget office. Dr. Hansen's testimony was based on his and his colleagues' research, which had been subjected to such peer review.

Senator Gore called the alteration of Dr. Hansen's testimony "unbelievable" and said that such Government action would have a "chilling effect" on science and make it more difficult to base sound policy on the scientific evidence.

A number of foreign leaders have been urging the United States to take the lead on global action to meet the threat of global warming, recalling President Bush's campaign pledge to exert such leadership.

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